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February 17, 2006

ATTACHMENT C
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**LAND CONSERVATION
AND DEVELOPMENT**

Lane Shetterly
Rob Hallyburton
Department of Land Conservation and Development
635 Capitol Street, NE
Suite 150
Salem, Or 97301

Subject: Objection to City of McMinnville and Yamhill County submittal

Dear Mr. Shetterly and Mr. Hallyburton:

The City of McMinnville has adopted various amendments to the October 2003 McMinnville Growth Management and Urbanization Plan (*MGMUP*), the Findings document for the *MGMUP*, related Comprehensive Plan Policies, McMinnville's Economic Opportunities Analysis, and McMinnville's Urban Growth Boundary. Yamhill County has also adopted several of these amendments and they have been submitted to DLCD pursuant to 197.626 to 197.650.

The submittal comes before DLCD pursuant to LCDC Partial Approval and Remand Order 001645, which remanded all portions of the city's 2003 submittal that were not explicitly approved.

Although the all the adopted amendments concern the same work tasks(s) and amend the same documents they were submitted to the department in two portions with separate deadlines for objections. On February 3, 2006, in an exercise of caution, we submitted objections to the first portion of the city's submittal. Because all our objections address a single document, we are incorporating our February 3rd objections and its attachments into this comprehensive set of objections.

1000 Friends of Oregon, Friends of Yamhill County, and Ilsa Perse submitted written and/or oral testimony at the public hearing on these amendments and have standing to file objections. As explained below, we have several objections to the city's submittal.

To resolve our objections, the Department and/or Commission should not acknowledge the submittal, but rather return it to the City with instructions to develop a proposal that is completely consistent with the relevant statutes, goals, and administrative rules.

The City also amended plan policy 71.11. The version adopted in 2003 read:

“High-Density Residential (R-5)- High density residential contains housing at densities of anywhere from 8 to 30 units per acre, depending on where the high-density dwellings are located (the highest densities being in the downtown commercial core). Typical uses include townhouses, condominiums, and apartments.”

The city’s adopted decision amends the policy to read:

“High-Density Residential (R-5)- High density residential housing includes townhouses, condominiums, and apartments, with the highest densities being in the downtown commercial core.”

The pre-amendment definition of medium and high-density residential are still included verbatim elsewhere in the text of the *MGMUP*.¹¹

There are several problems with these amendments:

A. Policy 71.09 as adopted in 2003 *MGMUP* stated, “The majority of residential lands in McMinnville are planned to develop at medium density range.” Our previous testimony and objections pointed out that the actual zoning regulations failed to implement this policy, since the vast majority of residential lands in McMinnville are actually planned and zoned for low-density development in the R-1 and R-2 zones.

Instead of amending the regulations to implement the plan, the city has gutted the policy. The findings do not explain how the City can drop the policy and still use residential land efficiently as required by Goal 14, Factor 4, or meet the housing needs identified in its housing needs analysis as required by Goal 10.

Moreover, while the city has gutted the plan policy, the text of the *MGMUP* itself continues to assert that:

“The majority of residential lands are planned to develop at medium density range (4-8 dwelling units per net acre.) Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses.”¹²

The rest of the plan and the city’s zoning fail to implement this text.

The majority of residential lands in McMinnville are actually planned to develop as R-1 and R-2, the lowest density residential zones in the city. According to Table 8 of the

¹¹ *MGMUP*, pp. 7-24 and 7-25

¹² *MGMUP*, p. 7-24

MGMUP, (p. B-10), the city plans for 1,053 acres of housing development in McMinnville between 2003 and 2023. Of these 1,053 acres, 669 acres- about 64%- are in the R-1 and R-2 zones. Only 313 acres- less than 30%- are in the city's medium density zones (R-3 and R-4).

For these reasons, the city's submittal violates Goal 2, Part 1; and Goal 14, Factor 4. In addition, the city has not explained why these violations do not also lead to a violation of Goal 10.

Remedy:

The Department should remand the *MGMUP* with instructions to plan for a majority of residential lands to develop at medium density range, consistent with the text of the *MGMUP*. Since this will result in a considerably reduced need for residential land the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

B. Both the text and policies of 2003 *MGMUP* and the text of the current amended version of the *MGMUP* define low density residential as < 4 dwelling units/net acre, medium density as 4-8 dwelling units/net acre and high density residential as anything > than 8 dwelling units/net acre. DLCD had recommended that LCDC remand the *MGMUP* with instructions to:

“Revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the city.”

The submitted amendments eliminate the numerical ranges for medium and high-density housing from plan policies 71.09 and 71.11 but do not otherwise revise the density and housing products considered to be medium and high density that are defined in the text of the plan. The amendments also do not revise the density used in formulating the plan and in calculating needed residential acreage. This does not solve the underlying inconsistencies identified by DLCD.

The current decision also amends the policy to delete the uses included in medium density development: small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses.

Merely eliminating the reference to density in the plan policy does not change planned density within the R-3 and R-4 zones or the housing products that are allowed in the zones and that are defined in the text of the *MGMUP*. The R-3 zone still has a minimum lot size of 6,000 square feet. The R-4 zone still has a minimum lot size of 5,000 square feet. As noted in DLCD's 2004 "Response to Exceptions":

"The issue, then, is whether lots ranging from 8,400 to 4,200 square feet are consistent with the medium-density housing products defined in Policy 71.09 (small lot single-family detached, single-family attached, duplexes, triplexes, and townhouses), and whether housing products typically located on lots that are up to but less than 4,200 square feet are consistent with high-density housing products as those are defined in Policy 71.11 (townhouses, condominiums, and apartments)."

As DLCD found in its "Response to Objections":

"A small lot in this vicinity can be considered to range from 4,500 to 6,000 square feet, which equates to approximately eight dwelling units per net acre."

"Similarly, townhouses are commonly provided on lots ranging from 2,000 to 3,000 square feet. This equates to densities ranging from 14 to 22 dwelling units per net acre. Therefore, while the city's definition of medium-density development is stated to range from four to eight dwelling units per acre, the characteristic housing types listed are more commonly found to range from seven to 20 units per net acre. The plan is internally inconsistent."

For these reasons, the city's submittal violates Goal 2, Part 1; and Goal 14, Factor 4. In addition, the city has not explained why these violations do not also lead to a violation of Goal 10.

Remedy:

Consistent with its previous recommendation to LCDC, the Department should remand the *MGMUP* with instructions to revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the zones. Since this will likely result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

OBJECTION 3: THE CITY HAS AMENDED THE PLAN IN A MANNER THAT REDUCES RESIDENTIAL LAND NEED BUT HAS FAILED TO ADOPT A CORRESPONDING REDUCTION IN THE SIZE OF THE UGB EXPANSION.

Goal 14 requires UGB amendments to be based upon demonstrated need. Similar requirements are found in OAR 660, Division 4, in Goal 2, and in ORS 197.236.

The city's decision amends the *MGMUP* in several ways that reduce the amount of land required to meet the city's need for housing. The city's amendments enhance the "efficiency measures" defined in ORS 197.296(6) but the city failed to calculate their impact on residential land need and failed to adopt a corresponding reduction in the size of the UGB expansion. Therefore, the city's submittal violates Goal 14 and ORS 197.296.

Specifically:

A. The city amended the Transit Corridor Enhancement Policy, plan policy 71.01, plan policy 71.13(6), plan policy 90.00, and zoning ordinance section 17.21.010(C) to encourage, allow, and plan for higher density and multi-family housing within a ½ mile wide corridor (2,640 feet) rather than the previous 1,000 foot wide corridor.

The city had calculated the impact of the 1,000 foot wide corridor as reducing land need by 15.79 acres.¹³ The city has increased the width of the corridor by 264 percent but has not made a corresponding reduction in land need.

B. The city amended plan policy 71.01, plan policy 71.13(7), policy plan 90.00, and zoning ordinance section 17.21.010(C) to encourage, plan for, and allow higher density and multi-family housing within a ¼ mile wide radius of designated activity centers and neighborhood and general shopping areas rather than the previous 1/8 mile radius.

The city also amended plan policies 188.10, 188.188, 188.26 and 188.34 to establish a minimum density of 7.5 dwelling units per net acre in neighborhood activity centers. This density had previously been the targeted average upon which the city based its land need calculations, rather than a minimum.

In 2003 the city had calculated the impact of increased density in just the Northwest and Grandhaven Activity Centers alone at 66.84 acres.¹⁴ Now the city has doubled the radius within all the neighborhood activity centers and from neighborhood and general commercial shopping areas within which it will plan for and allow higher-density and multi-family housing. Doubling the radius more than doubles the land area.

The amendments cited above plan for and allow higher density housing, including smaller lots, duplexes and multi-family housing in much broader areas of both Neighborhood Activity Centers and the city as a whole. They will therefore reduce the amount of residential land needed within the UGB.

The City has not calculated the impact of these amendments on residential land need nor has it adopted a corresponding reduction in the size of the UGB expansion. Instead, the city continues to base its land needs on the prior more restrictive language in its plan and code and on an average density of 7.5 dwelling units per net acre in the Neighborhood

¹³ *MGMUP*, p. 7-28, Table 16

¹⁴ *MGMUP*, p. 7-28, Table 16

Activity Centers.

For these reasons, the city's submittal violates Goal 14 and ORS 197.296.

Remedy:

The Department should remand the *MGMUP* with instructions to recalculate residential land need based on the new larger areas in which the city intends to encourage, plan for and allow higher-density housing. Since this will result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

OBJECTION 4: THE CITY'S AMENDMENTS TO PLAN POLICY 188.03 FAIL TO RESOLVE INTERNAL INCONSISTENCIES WITHIN THE PLAN AND ESTABLISH A GUIDELINE CALLING FOR INEFFICIENT USE OF URBAN LAND.

The text of the *MGUMP* describes the Neighborhood Activity Centers as compact, pedestrian-friendly, and transit-supportive.¹⁵ The *MGMUP* in part relies upon them to justify the purported need for large blocks of flat farmland and as purported evidence that the City is sufficiently implementing "efficiency measures."

Plan policy 188.03, as amended by the city's current decision, reads in relevant part:

"188.03 Neighborhood activity centers should be located and arranged according to the following guidelines:

* * *

Maximum distance away from the edge of a Focus Area that high-density housing (a part of the support area) should be located: 1/8 mile

Maximum distance away from the edge of a Focus Area that medium-density housing (a part of the support area) should be located: 1/4 mile

* * * "

While the city amended the policy to change "shall" to "should" in its first sentence, the policy still establishes guidelines limiting the location of "high-density housing" (elsewhere defined as densities of 8 units/net acre or greater) and medium density housing (elsewhere defined as densities of 4 -8 units/net acre. These guidelines effectively state that all housing more than 440 yards from an NAC focus area should be less than 4 du/net acre. 220 yards is about 3 blocks, 440 yards is about 6 blocks.

¹⁵ Various pages including E-5, 5-16,3-5, 1-2

A. *Internal inconsistency within the plan and regulations.*

The limitations on high-density density housing contained in Policy 188.03 are inconsistent with several policies cited in the preceding objection. As we noted above, the current decision amends plan policies 71.01, 71.13(7), 90.00, and zoning ordinance section 17.21.010(C) to encourage, plan for, and allow higher density and multi-family housing within a $\frac{1}{4}$ mile wide radius of designated activity centers and neighborhood shopping areas rather than the previous $\frac{1}{8}$ mile radius.

The $\frac{1}{8}$ mile limitation in the policy 188.03 guidelines is inconsistent with encouraging, planning for, and allowing higher density and multi-family housing within the $\frac{1}{4}$ mile wide radius called for in these other policies and regulations. It is also inconsistent with the stated intention of the Neighborhood Activity Centers described in the *MGMUP*: to provide compact, pedestrian-friendly, and transit-supportive development. For these reasons, the city's submittal violates Goal 2, Part 1.

B. *Establishment of guidelines calling for inefficient use of urban land*

By limiting the location of "high-density housing" (elsewhere defined as densities of 8 units/net acre or greater) and medium density housing (elsewhere defined as densities of 4–8 units/net acre, the plan policy prevents the critical mass of compact development necessary to the success of the NAC's and thus undermines their purpose and function. In addition, it mandates inefficient use of residential land and thus inflates projected land needs and the size of the proposed UGB expansion. For these reasons, the city's submittal violates Goal 14 and ORS 197.296.

As DLCD stated in regard to the city's 2003 submittal:

"... this policy states that the "maximum distance" high-density housing can be located away from the edge of a Focus Area is 660 feet, while the "maximum distance" from the edge of the Focus Area for medium-density housing is 1,320 feet. This policy, *even in the context of a guideline*, appears to indicate that high-density housing is not allowed (or is certainly discouraged from being located) more than 660 feet from the edge of a Focus Area. By definition, this policy states that medium- or low-density housing are the only appropriate uses beyond this 660-foot distance.

McMinnville's zoning ordinance states that the minimum lot size in the R-3 zone (a medium-density zone) is 6,000 square feet. Therefore, this policy limits high-density housing to no further than 660 feet from the edge of a Focus Area, and that beyond this line, residential development with minimum lot sizes of 6,000 square feet are allowed. 6,000 square foot lots can be a component of a transit-oriented development, but it is inconsistent with transit-oriented development principles to preclude

higher-density housing types from being located more than 660 feet from a transit stop or neighborhood center..."¹⁶ (emphasis added)

DLCD recommended that the city's 2003 submittal be remanded to:

"Amend Policy 188.03 to more clearly be a guideline and to not limit high-density housing from being a maximum distance of 1/8 mile (660') from the edge of a Focus Area." (emphasis added)

If high-density housing is only allowed within a radius of 660 feet from a focus area, this encompasses an area of 31.4 acres in each NAC. If the radius doubles to 1320 feet, the area within which high-density housing is allowed jumps to 125.6 acres,¹⁷ a not insignificant difference of 94.2 acres.

Since the city has designated four Neighborhood Activity Centers in undeveloped areas, a total of 377 gross acres, or approximately 300 net acres, will be affected if Policy 188.03 is amended to be consistent with the other plan policies and regulations. The City has defined medium density as 4-8 units per net acre and high-density as 8-30 units per net acre. Even at the lowest end of these density ranges, an additional 1200 housing units could be accommodated within a quarter-mile of the NAC focus areas.

Goal 14 requires that UGB amendments be based upon demonstrated need, consider maximum efficiency of land uses within and on the fringe of the existing urban area, and the retention of agricultural land. The city's decision violates these provisions of Goal 14 for the reasons stated above.

Remedy:

Consistent with its previous recommendation to LCDRC, the Department should remand the *MGMUP* with instructions to amend Policy 188.03 to not limit high-density housing from being a maximum distance of 1/8 mile (660') from the edge of a Focus Area. Since this will result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

OBJECTION 5: THE CITY HAS REJECTED REASONABLE MEASURES THAT WOULD RESULT IN MORE EFFICIENT USE OF URBAN LAND.

Under Factor 4 of Goal 14, ORS 197.732(1)(c)(B), Goal 2, Part II(c)(2), and OAR 660-04-020(2)(b) the City must adopt reasonable efficiency measures prior to expanding the UGB on to lands protected under Goal 3 and/or 4. These measures would also be consistent with Goal 10, the city's housing needs analysis, and ORS 197.303.

¹⁶ DLCD Response to Exceptions, April 20, 2004

¹⁷ The formula is $\pi \times \text{radius squared}$. Divide by 43560 to translate square feet to acreage.

A number of reasonable efficiency measures were proposed for adoption during the public hearings process. The City failed to adopt these measures or alternatively, to explain why they are not reasonable.

McMinnville made several findings regarding future trends in its *Housing Needs Analysis*, acknowledged by LCDC in the 2003 proceedings:

- Single family lots are getting smaller.
- In 1990, McMinnville had a greater percentage of persons in poverty than the state average.
- In the McMinnville region, service-related jobs at lower wages will increase, which “will reduce households’ ability to purchase housing and could increase the affordability gap.”

The *Housing Needs Analysis (HNA)* also found that 53% of McMinnville’s current residents are low income, very low income, or extremely low income. (Table 5-18) Nearly 25% of city households cannot afford a studio apartment at fair market rent levels, and more than 35% of city households cannot afford a two-bedroom apartment. The *Analysis* found that in the future, it is likely that smaller houses, smaller lots, attached single family housing, apartments, and manufactured housing will be needed to meet changing housing needs.

The *McMinnville Growth Management and Urbanization Plan (MGMUP)* acknowledges that various goals and ORS 196.296 require the City to adopt and implement “efficiency” measures to reasonably accommodate the need within the existing UGB and thus reduce or eliminate the need to expand the UGB. The *MGMUP* bases residential land need projections on a calculation of overall density for new residential development of 5.7 du/gross buildable acre (7.2 du/net acre).

In assessing whether more residential needs could be “reasonably accommodated” within the existing UGB or on a smaller expansion, it is useful to consider the “Urban Growth Management Framework” adopted by Marion County. Within that framework, Marion County adopted land use efficiency standards to be met before a city can amend its UGB. (See attachment to our 2003 objections). These standards are to be applied to new residential development. For cities forecasted to be over 25,000 by 2050, the standard is 8 housing units per gross buildable acre. (This standard applies to Woodburn; Salem has a higher standard.)

There is no evidence to suggest this standard adopted by Marion County cannot be reasonably implemented in McMinnville. At 8 du/gross buildable acre, instead of 5.7 du/gross buildable acre, the 6,014 new dwelling units that the city projects will be needed would only require 752 acres of gross buildable land instead of 1,055. **This would reduce residential land needs by approximately 303 gross buildable acres.**

Reduced minimum lot sizes.

McMinnville's single-family R-1 zone has a minimum lot size of 9,000 sq. ft. The R-2 zone has a minimum lot size of 7,000 sq. ft. The R-3 zone has a minimum lot size of 6,000 square feet. The R-4 zone has a minimum lot size of 5,000 square feet. As detailed above in Objection 2, the city plans for 1,053 acres of housing development in McMinnville between 2003 and 2023. Of these 1,053 acres, 669 acres- about 64%- are in the R-1 and R-2 zones. Only 313 acres- less than 30%- are in the city's medium density zones (R-3 and R-4).

For some time, Willamette Valley cities similar to McMinnville have allowed, or in some cases require, residential development to use land more efficiently than McMinnville.

The following list of other cities in the valley is in not comprehensive. It merely includes a few representative small and mid-sized jurisdictions. Information was compiled in 2003, and for the smaller cities was obtained from the Mid-Willamette Valley Council of Governments. All of these cities have minimum lot sizes that are substantially smaller than McMinnville's.

Newberg

Newberg's residential minimum lot sizes are significantly smaller than McMinnville's and have been for many years.

R-1- Newberg's R-1 zone is its lowest density residential zone. It has a minimum lot size of 7500 square feet. At 9,000 square feet, McMinnville's minimum lot size in its R-1 zone is 20% larger.

R-2- Newberg's R-2 zone has a minimum lot size of 5000 square feet. At 7,000 square feet, McMinnville's minimum lot size in its R-2 zone is 40% larger

Corvallis

Corvallis has 5 residential zones. All have minimum lot sizes significantly lower than McMinnville. In addition, it has also established minimum density standards for all residential zones, including single-family.

Its lowest density single-family zone has a minimum lot size of 8,000 sq. ft. The city has a second single-family zone with a minimum lot size of 6,000 sq. ft. Its third low-density zone has a minimum lot size of 5,000 sq. ft.

Corvallis has a medium density zone with a minimum lot size of 3,250 sq. ft. The city's minimum density standards require at least 6 dwelling units per acre in this zone.

The city's medium-high density zone permits a maximum of 20 dwelling units per acre and requires at least 12 dwelling units per acre.

Within the high density zone, Corvallis only permits development to occur at a minimum of at least 20 units per acre.

Salem

Salem's lowest density residential zones is its single-family residential zone and its duplex residential zone. Both have a minimum lot size of 4,000 sq. ft.

Forest Grove

In Forest Grove, the "minimum lot area in all single-family residential zones shall be 4,000 square feet per dwelling unit, or 2,500 square feet per dwelling unit for townhouses included in subdivision approval." Forest Grove has also established minimum density standards for all residential zones, including single-family zones.

Woodburn

Woodburn's lowest density residential district is its single-family Low Density Residential (LDR) zone, which has a 6,000 sq. ft. minimum lot size.

Dallas

Within its lowest density zone residential zone (R-1), Dallas permits single-family homes on a minimum lot size of 6,000 sq. ft, except on corner lots, where the minimum lot size is 8,000 sq. ft. Its next lowest density residential zone (R-M) has a 4,000 sq. ft. minimum lot size.

Independence

Independence permits single-family homes on a 5,000 sq. ft. minimum lot size in any residential area of the city.

Hubbard

Hubbard's lowest density zone residential zone has a minimum lot size of 7,000 sq. ft. Within that zone, duplexes are allowed on corner lots at least 8,500 sq. ft. in size.

Mt. Angel

Mt Angel's lowest density zone residential zone has a minimum lot size of 6,000 sq. ft. for interior lots and 7,000 sq. ft. for corner lots.

Gervais

Gervais's lowest density residential zone has a minimum lot size of 6,600 sq. ft.

It is not clear why McMinnville could not “reasonably accommodate” residential land need within the existing UGB or reduce the size of expansion by implementing minimum lot sizes that are similar to those adopted by these other cities in the Willamette Valley.

McMinnville’s larger minimum lot sizes and in particular its R-1 and R-2 zones to some extent ensure very low density development that significantly increases the amount of land required to meet future residential land needs and thus increases pressure for a UGB expansion. These larger minimum lot sizes necessarily result in less efficient land use and increased sprawl in contradiction with City and County Comprehensive Plans, as well as Statewide Planning Goals, which all emphasize the development of compact, efficient urban centers.

Reduce the proportion of land in large lot zones.

As outlined in Objection 2, and consistent with the text of the MGMUP, the city should plan for the majority of residential lands to develop in the R-3 and R-4 zones, which have minimum lot sizes of 6,000 and 5,000 sq. ft., respectively.

Establish Minimum Density Standards

While the city did establish a minimum density standard of 7.5 dwelling units per net buildable acre within Neighborhood Activity Centers, the City could follow the lead of Corvallis, Forest Grove and other cities and establish minimum density standards in other zones as well. This would ensure that residential development achieves a percentage of allowable density consistent with the city’s housing needs analysis. A minimum standard of 80% of allowable density is typical.

Establish minimum floor area ratios for employment uses.

As noted elsewhere in these objections, both city-wide and within the Neighborhood Activity Centers the *MGMUP* is based upon inefficient use of employment land. This is inconsistent with the City’s stated intention to avoid auto-dependent strip commercial development and to create compact, pedestrian-friendly neighborhoods.

The city could establish minimum floor area ratios for employment uses, especially commercial uses. This is a reasonable action regarding employment uses the City can take to better achieve its stated goals, to improve efficiency of land use, and to better comply with the Transportation Planning Rule.

Provide incentives and for infill and redevelopment

When infill and redevelopment occurs in areas where the public has already made substantial investments in infrastructure, new infrastructure costs are substantially less than when new development occurs in outlying areas to which new services must be extended. The City can recognize this by providing incentives for infill and redevelopment, such as reduced or waived permitting and systems development fees.

Remedy:

The Department should direct the City of McMinnville to implement the above efficiency measures or to alternatively explain why they are not reasonable.

OBJECTION 6: PLAN POLICY 188.05 ALLOCATES AN EXCESSIVE AMOUNT OF LAND FOR THE PROJECTED BUILT COMMERCIAL AND OFFICE SPACE IN NEIGHBORHOOD ACTIVITY CENTERS.

Goal 2 and Goal 14 require the city to adopt a plan and regulations that are consistent and that use land efficiently. Because this plan policy calls for a very large amount of land for the projected amount of built employment space within Neighborhood Activity Centers the city's submittal fails comply with these goals.

Plan Policy 188.05 (*MGMUP*, p. D-20) calls for 5 to 10 acres of land in each NAC to accommodate 50,000 to 100,000 sq. ft. of retail floor space and an additional 2.5 to 10 acres to accommodate 25,000 to 100,000 sq. ft. of office. These translate into floor area ratios of .23.

As DLCD noted in reviewing the city's prior submittal:

"... even a "big-box" commercial development such as a Wal-Mart store can exceed a floor area ratio of 0.18... Overall, floor area ratios of 0.20 to 0.30 are typical of auto-oriented commercial buildings... Further, while retail commercial uses are typically one story with large amounts of space devoted to parking and the display of goods, office uses are very different. Office uses can be multi-story and can accommodate more employees in a given floor space than retail uses. Office uses have more in common with public uses, which the city has planned with a floor area ratio of .32, than with retail commercial uses."¹⁸

The inefficient, auto-oriented ratio of land to commercial buildings and to office buildings contained in policy 188.05 is inherently inconsistent with the city's intent for the NACs to be "compact, pedestrian-friendly, and transit-supportive." The city has not adopted any findings explaining why such an excessive amount of land is needed to accommodate the projected amount of building space.

In reviewing the city's overall employment needs DLCD also previously noted:

"It is reasonable to believe that the city can accommodate the projected commercial and office need on less land and, to comply with Goal 14 and the "exceptions" standards, it is incumbent on the city to do so. The department recommends the Commission remand the commercial land

¹⁸ DLCD Response to Objections, March 30, 2004

needs analysis to be revised to maximize efficiency as required by Goals 2 and 14.”¹⁹

For these reasons, the city’s submittal violates Goal 2 and Goal 14.

Remedy:

The Department should remand the MGMUP with instructions to amend Policy 188.05 and related sections of the MGMUP to maximize efficiency of employment land within Neighborhood Activity Centers consistent with compact, pedestrian-friendly, and transit-supportive development. Since this will result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

OBJECTION 7: THE CITY HAS OVERALLOCATED LAND FOR COMMERCIAL AND OFFICE EMPLOYMENT USES

In reviewing the city’s prior submittal, DLCD recommended “the Commission remand the commercial land needs analysis to be revised to maximize efficiency as required by Goals 2 and 14.”²⁰ As noted in the 2004 Commission order that followed, the city agreed to a remand of its economic opportunities analysis to provide an adequate factual base.

The city’s current decision leaves the amount of land allocated to commercial employment, including office employment, unchanged, although it does eliminate from the Economic Opportunities Analysis and *MGMUP* various references to floor area ratios and employees per square foot. The city’s current decision relies on employee per acre assumptions.

These amendments do not bring the submittal into compliance with Goals 2 and 14 for two reasons: First, the city has allocated more acres of vacant land to new commercial and office uses than its employee per acre assumptions call for. Second, the city has assumed office employees will need as much land per employee as commercial employees.

A. Overallocation of land

Based on employee per acre assumptions adjusted for vacancy, the city has calculated that it will need 88.6 acres of vacant land for new commercial uses and 85.0 acres of vacant land for new office uses over the planning period.²¹ This is a total of 173.6 acres.

The city has allocated 192.9 acres rather than 173.6 acres to new commercial land for commercial and office uses and has based its UGB amendment on this higher number.²²

¹⁹ DLCD Response to Objections, March 30, 2004, p. 6

²⁰ DLCD Response to Objections, March 30, 2004, p. 6

²¹ Addendum to *MGMUP*, pp. 5-7

The city's submittal does not explain this discrepancy. This overallocation inflates the size of the UGB expansion by about 20 acres.

B. Office employees per acre

The city has projected new office employment at 22 employees per acre, the same figure it has used for commercial employees.

As noted in the preceding objection, DLCD has previously found that:

"...while retail commercial uses are typically one story with large amounts of space devoted to parking and the display of goods, office uses are very different. Office uses can be multi-story and can accommodate more employees in a given floor space than retail uses. Office uses have more in common with public uses... than with retail commercial uses."²³

The city has projected public uses at 35 employees per acre. The city has not explained why new office employment will more closely resemble commercial uses in its land needs than public uses.

Remedy:

Consistent with its previous recommendation to LCDC, the Department should remand the *MGMUP* with instructions that the commercial land needs analysis be revised to maximize efficiency as required by Goals 2 and 14. Since this will result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

OBJECTION 8: THE CITY HAS NOT JUSTIFIED THE AMOUNT OF BUILDABLE LAND INCLUDED IN THE UGB EXPANSION FOR PARKS, NOR ADEQUATELY CONSIDERED THE IMPACT OF SHARED FACILITIES ON NEEDED PARK ACREAGE

A. Amount of buildable land included in the UGB expansion for parks

About 30% of all gross buildable land included in the proposed UGB expansion is for community and neighborhood parks. Throughout the local process, the city has included all community and neighborhood parkland in the category of buildable residential acreage despite a past history of locating these park types partially on unbuildable land.

In this decision, the city adopts a new plan policy (Policy 163.05) to require that future community and neighborhood parks be located above the boundary of the 100-year floodplain. The City has not adopted any land use measures to protect this proposed

²² *MGMUP*, p. B-21. Additional public and semi-public uses bring the total allocation to 219.1 acres.

²³ DLCD Response to Objections, March 30, 2004

acreage for eventual park use, nor has the City proposed any funding mechanism to purchase this amount of buildable acres of parkland over the next 17 years. It is therefore clear that a large portion of the UGB expansion purportedly for parkland will instead be converted to residential uses.

In fact, since adoption of the parks master plan six years ago, the City has acquired only about 20 acres of buildable land for parks, at a cost of \$73,000 per acre, funded by a 20-year bond measure.²⁴ The City would need to acquire this much buildable land every year through the planning period to acquire the remaining acres of the UGB expansion that is purportedly for parks. The City has not proposed another parks bond measure before the current one is retired, nor has the City proposed assessing System Development Charges that are anywhere near adequate to cover the cost of acquisition, let alone the additional cost of park development.

Goal 2 requires consistency among the city's various planning documents. The financing section of the Parks Master Plan includes no plan to finance the acquisition of 30% of the buildable land added to the UGB.

Goal 2 requires that plans have an adequate factual basis. There is not an adequate factual basis to conclude that the City can acquire 30% of the proposed buildable acreage in the UGB expansion for use as community and neighborhood parks.

Goal 2 requires internal consistency within the city's plan. Other plan policies and implementing regulations contained within the *MGMUP* explicitly call for locating some portion of community and neighborhood parks on unbuildable land, including floodplain land and wetlands. New plan policy 163.05 and the allocation of 100% of neighborhood and community parks to buildable land are inconsistent with these other plan policies and implementing regulations:

"A community park should... incorporate identified wetland corridors"²⁵

"A neighborhood park should be located adjacent to the South Yamhill River."²⁶

All areas adjacent to the South Yamhill River are within the floodplain.²⁷

"Consistent with the Parks, Recreation and Open Space Master Plan a neighborhood park should be located within the central portion of the

²⁴ See newspaper article attached to objections filed February 3, 2006. In addition to the approximately 15 acres of buildable land in Discovery Meadows, the city has also acquired Thompson Park, approximately 3 acres in size.

²⁵ Plan Policy 188.15, *MGMUP* p. D-21 and Neighborhood Activity Center Planned Development Ordinance, *MGMUP* p. E-12

²⁶ Plan Policy 188.31, *MGMUP* p. D-23 and Neighborhood Activity Center Planned Development Ordinance, *MGMUP* p. E-13

²⁷ See *MGMUP* p. 6-14

[SW] sub-area... The wetland areas should be incorporated into the park, as practical."²⁸

Goal 14 requires UGB amendments to consider the orderly and economic provision of public facilities and services, the maximum efficiency of land uses within and on the fringe of the existing urban area, and the retention of agricultural land. Recent amendments to Goal 14 require Comprehensive Plans and implementing measures to manage the use and division of urbanizable land to maintain its potential for *planned* urban development. The city's decision violates these provisions of Goal 14 for the reasons stated above.

The city's decision also amends the findings document to state that no additional land has been allocated for linear parks and trails. A similar statement is included in the *MGMUP*.²⁹ This is factually incorrect. The city has included within its proposed UGB expansion 107 buildable acres and 55 unbuildable acres for Greenways/ Greenspaces/ Natural Areas in addition to the existing 102 acres of land in these park-types.³⁰

As testimony in the local record indicates, trails and linear parks are found within the city's Greenways, Greenspaces, and Natural Areas. These include the linear Westvale Greenway and Airport Park, a Natural Area which is almost entirely devoted to trails.

Goal 2 requires that plans have an adequate factual basis. The city has allocated additional land for Greenways, Greenspaces, and Natural Areas. These park types include trails and linear parks. There is not an adequate factual basis to conclude that the city has not allocated additional land for linear parks and trails.

B. Shared Facilities

We concur with the comments of Mark Davis regarding the potential for school district and Linfield properties to meet some portion of park needs. The city's UGB amendment assumes 96 vacant buildable acres will be used for new public schools over the planning period.³¹ Evidence in the record shows that in a similar periodic review process in Woodburn, the City of Woodburn is assuming that 50% of all school land would also serve to meet the anticipated need for neighborhood and community parks.³²

The evidence does not support the city's conclusion that no portion of the identified need can be met on shared facilities. The evidence supports the opposite conclusion:

The city found:

²⁸ Plan Policy 188.36, *MGMUP* p. D-24 and Neighborhood Activity Center Planned Development Ordinance, *MGMUP* p. E-14

²⁹ *MGMUP*, p. B-24

³⁰ *MGMUP*, p. B-26, Table 23

³¹ *MGMUP*, p. B-21

³² See attachment to objections filed February 3, 2006

"The residents of McMinnville enjoy many of the athletic facilities available on McMinnville School District and Linfield College campus property. These include gymnasiums, track stadiums (for football) and field house (swimming, diving)." ³³

Mark Davis submitted evidence that in addition to the above uses these also include fields for soccer, baseball, tennis, and informal recreation. ³⁴

Undeveloped land in the proposed Northwest Neighborhood Activity Center includes a new high school site and a new elementary school site. ³⁵ Undeveloped land adjacent to the proposed Grandhaven Neighborhood Activity Center includes a new middle school site and an existing elementary school. ³⁶ The school district recently acquired a site for another new school at the southern edge of the city. ³⁷ The City has an intergovernmental agreement with the school district to share facilities and a similar arrangement with Linfield.

Clearly, some, but not all, of the need for formal and informal recreation facilities associated with Community and Neighborhood Parks can be met on the new school sites planned within or adjacent to the areas of proposed new residential development.

This is confirmed by the testimony of City Manager Kent Taylor regarding shared park facilities. During the local hearing that led to adoption of the city's current submittal he stated:

"The last issue I'd touch on is the issue of partnering with the schools. And as I understand our history and as I understand our policy there is no, no intent to back off from future partnering with the school district. I think what the policy suggests is that as we've done for decades and decades, that we'll continue to do that, but even in the light of that, it's not going to meet all the differing needs, the differing types of open space and parks. I think that's the intent as I read it." ³⁸

Remedy:

For these reasons, the Department should remand the *MGMUP* with instructions to revise its assumptions regarding needed parkland to reflect realistic assumptions for which there is an adequate factual basis; resolve internal inconsistencies; and reduce the planned need for buildable land for neighborhood and community parks to account for the potential for sharing park facilities with the School District and

³³ Ordinance 4840, p. 11

³⁴ See attachment to objections filed February 3, 2006

³⁵ *MGMUP* p. 7-9

³⁶ *MGMUP* pp. 7-11 to 7-12

³⁷ News-Register article submitted to local record, "District acquires southeast school site" July 15, 2003

³⁸ January 11, 2006 public hearing, cassette tape side 2 of 4. Hearing tapes available on request.

Linfield College. Since this will result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

At a minimum, to ensure urbanizable land to maintain its potential for *planned* urban development, the Department should remand the *MGMUP* with instructions to adopt a plan policy requiring that 30% of the buildable acreage added to the UGB not be annexed for any use other than neighborhood and community parks.

OBJECTION 9: THE CITY HAS SIGNIFICANTLY UNDERESTIMATED THE DEVELOPMENT CAPACITY OF THE RIVERSIDE SOUTH AREA, WHICH IS NOW WITHIN THE CITY'S ACKNOWLEDGED UGB.

Under Goal 14, Goal 2, and ORS 197.296, the city is required to justify the amount of land added to its UGB, to use urban land efficiently, and to have an adequate factual basis for its plan and for its adopted findings to justify an exception.

The Riverside South area was added to McMinnville's UGB as part of the city's 2003 submittal and along with Fox Farm Road and Redmond Hill Road its inclusion was acknowledged by LCDC.

Although the area contains large tracts of vacant land, the city has assumed it will develop with a gross density of only 4.3 dwelling units/gross buildable acre. Other areas within the existing UGB are assumed to develop at 5.7 dwelling units/gross buildable acre and other large vacant expansion areas are assumed to develop at 6.3 dwelling units/gross buildable acre. The city did not adopt any findings regarding projected residential density in the Riverside South area nor has it pointed to an adequate factual basis for assuming that residential development in this area will use land less efficiently than vacant land within the city limits or other large vacant expansion areas.

The *MGMUP* states that the area is "heavily parcelized."³⁹ In fact, there is a large block of flat vacant land of approximately 40 acres with no improvement value, right in the middle of the exception area.⁴⁰ Additional developable land is adjacent to this core area.

Taken together, tax lots 2100, 2101, 2102, 2590 and 3100 form a contiguous block of over 55 acres that is traversed by a designated major collector and contains only one existing structure in the extreme northeast corner. This falls well within the mid-range of the 28 to 70 acre combined focus and support area that the city found is optimal for an NAC.⁴¹ (see photos from local record below).

³⁹ *MGMUP*, p. 6-11

⁴⁰ *MGMUP*, Figure 26 (page C-57), Figure 28 (p. C-60), and Figure 29, (p. C-61)

⁴¹ Findings, p. 21

The *MGMUP* also contains conclusory statements regarding the desires of existing residents in the area to maintain a rural lifestyle, cites the potential for new residents to object to other existing uses in the vicinity:

“Based on this existing pattern of development, and the recognition that additional industrial development will occur on the adjacent lands, it would be inconsistent with good planning practice to encourage additional residential development beyond what now exists in the subarea.... it is recommended that residential development in this subarea be limited to density commensurate with the R-2 (Single-Family Residential zone.)”⁴²

Regardless of whether or not a Neighborhood Activity Center is located in the Riverside South area the City has underestimated its capacity. The city has not planned for efficient use of urban land or provided an adequate factual basis for its plan.

In addition, Goal 2 requires that findings to justify an exception set forth findings of fact and statement of reasons which demonstrate that the standards for an exception have or have not been met. As noted above, the city did not adopt any findings regarding projected density in the Riverside South area.

The size of the proposed UGB expansion has not been justified and the city's submittal violates Goal 2, Goal 14 and ORS 197.296

Remedy:

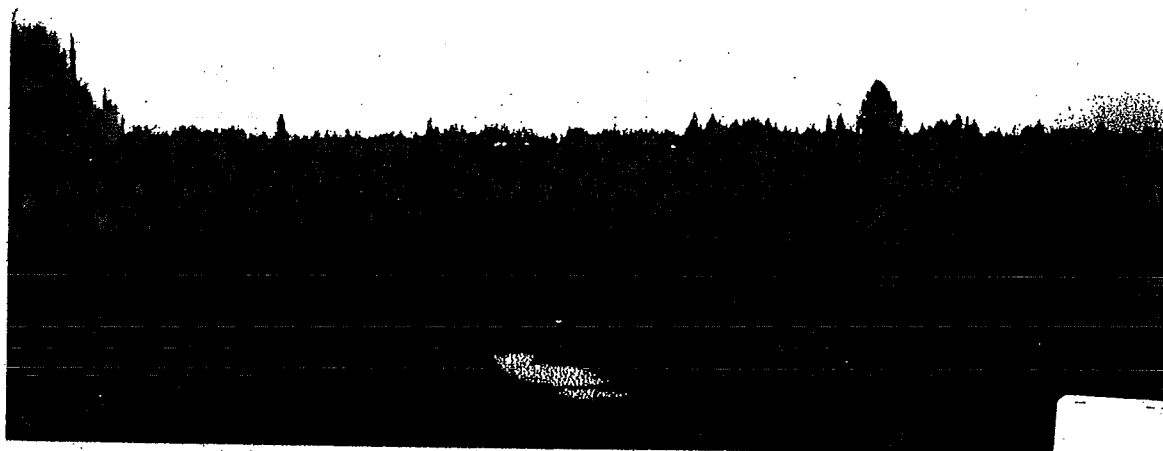
The Department should remand the *MGMUP* with instructions to plan for Riverside South to develop at densities equivalent to other vacant areas within the existing city or within other large vacant expansion areas or provide an adequate factual basis and explanation for assuming it will not. Since this will likely result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

⁴² *MGMUP*, p. 6-12

Riverside South looking SW from corner of Riverside Drive and Riverside Loop



Riverside Drive Area looking N along Walnut, just north of Riverside Dr.

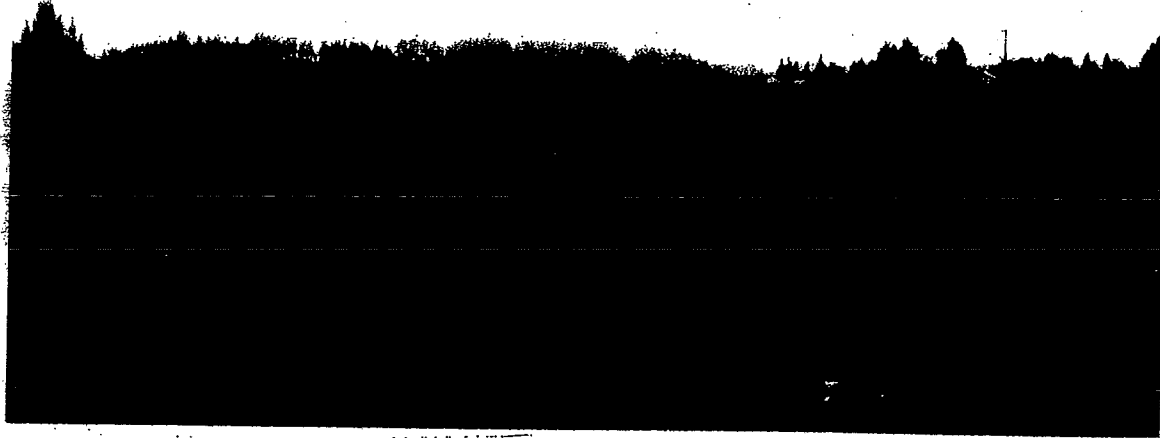


Riverside South looking east from N. end of Walnut across TL 2100 and 2101



Riverside South area across Riverside Drive from TL ~~2100~~ 2101





OBJECTION 10: THE CITY HAS UNDERESTIMATED THE DEVELOPMENT CAPACITY OF THE REDMOND HILL AND FOX FARM AREAS, WHICH ARE NOW WITHIN THE CITY'S ACKNOWLEDGED UGB.

The Redmond Hill and Fox Farm areas were added to McMinnville's UGB as part of the city's 2003 submittal and along with Riverside South, their inclusion was acknowledged by LCDC.

The *MGMUP* assumes that in these 2 areas, residential development will average only 3.5 dwelling units per gross buildable acre.⁴³ This is substantially less than "needed density." The findings do not explain, as required by Goal 2, Part II,(c) why these included areas cannot reasonably accommodate more of the identified need for residential land and thus reduce the need to include lower priority resource land.

Remedy:

The Department should remand the *MGMUP* with instructions to plan for vacant land in the Redmond Hill and Fox Farm to develop at densities equivalent to other vacant areas within the existing city or within other expansion areas or provide an adequate factual basis and explanation for assuming they will not. Since this will likely result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

⁴³ *MGMUP*, p. 6-12

OBJECTION 11: THE CITY HAS FAILED TO ACCOUNT FOR A UGB EXPANSION MADE SINCE 2003 OUTSIDE THE MGMUP PROCESS.

Under Goal 14, Goal 2, and ORS 197 the city is required to justify the amount of land added to its UGB, to use urban land efficiently, and to have an adequate factual basis for its plan and for its adopted findings to justify an exception.

In 2004, McMinnville expanded its UGB to include 35 commercially zoned acres for future expansion of the Evergreen Air Museum. The UGB was expanded through the post-acknowledgment plan amendment process and the land involved was not included or analyzed in either the 2003 version or the current version of the MGMUP.

The city's submittal does not address the impact of this 35 acre UGB expansion on the amount of land in the existing UGB or the impact, if any, on the amount additional land needed for future employment growth. For these reasons, the city's submittal violates the goals and statutes.

Remedy:

The Department should remand the MGMUP with instructions to either account for the employment growth that will be absorbed on these 35 acres or explain why it will not absorb any of the identified employment growth.

OBJECTION 12: MCMINNVILLE'S UGB EXPANSION INCLUDES PRIME FARMLAND INSTEAD OF HIGHER-PRIORITY EXCEPTION AREAS AND AREAS OF POORER SOILS. FOR SEVERAL EXPANSION AREAS THE CITY HAS NOT ANALYZED THE COMPATIBILITY OF PROPOSED USES WITH NEARBY FARM AND FOREST ACTIVITY.

The City has not included hundreds of buildable acres of land in adjacent exception areas and hundreds of buildable acres of land in adjacent areas with poorer soils within the expanded UGB. Instead, the city plans extensive new development on prime farmland west, east, north and south of the existing boundary. This includes extensive new residential and commercial development south of the Highway 18 bypass around McMinnville, creating a potential traffic nightmare.

Furthermore, the city has not conducted a coordinated land priority analysis around the entire UGB perimeter, nor has it analyzed the compatibility of proposed uses with nearby farm and forest activity for several areas it included in the UGB expansion.

For these reasons, the city's submittal violates ORS 197.298, Goal 14, ORS 197.732(1)(c)(B) and Goal 2, Part II(c).

ORS 197.298 and Goal 14 provide specific criteria to apply when amending an urban growth boundary.

Under ORS 197.298, the highest priority lands for inclusion in an expanded UGB is land that is designated urban reserve land. Since McMinnville has no urban reserves, highest priority lands for inclusion is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land.

Lowest priority lands for inclusion is land designated in an acknowledged comprehensive plan for agriculture or forestry, and within this lowest priority category, higher priority shall be given to land of lower capability soils.⁴⁴

Lower priority lands can only be included in the UGB if identified land needs cannot be reasonably accommodated on higher priority lands.

Similar criteria are found in Goal 14. In addition, Goal 14 also requires consideration of the compatibility of the proposed uses within the new urban areas with nearby agricultural activities.

A. *Excluded "Exception Areas"*

The City's UGB expansion *excludes* over **225 BUILDABLE** acres of exception land in 5 areas. Under ORS 197.298, exception land must be included in a UGB instead of resource land if it can reasonably accommodate some portion of identified needs,⁴⁵ which these areas can. It is always easier to urbanize flat farmland than exception areas. The 5 excluded exception areas are no different than any other exception areas in this regard. Resource areas with lower capability soils that McMinnville passed over in its UGB expansion include areas both east and west of the City.

The five passed-over exception areas are Old Sheridan Road, Bunn's Village, Riverside North, Booth Bend Road, and Westside Road.

Old Sheridan Road

The Old Sheridan Road exception area contains approximately 36.5 gross buildable acres and the sub-area is virtually flat.⁴⁶ Adjacent areas within the existing UGB are already developed or planned to develop with residential uses.⁴⁷

The record does not support the city's findings that the Old Sheridan Road exception area cannot reasonably accommodate a portion of identified residential land needs.

⁴⁴ Similar criteria are found in factor 6 of Goal 14

⁴⁵ In *Residents of Rosemont v. Metro*, the Court of Appeals ruled the statute asks whether exception areas can accommodate the use at all, not whether they can do so as efficiently or beneficially as farmland.

⁴⁶ *MGMUP*, p. C-97

⁴⁷ *MGMUP*, p. C-100

The city found that the cost of providing public services necessary to support urbanization is high.⁴⁸ In fact, the *MGMUP* concludes that, "urban services necessary to support [urban densities]... can be extended to it."⁴⁹ Costs of providing water and electrical services are estimated to be moderate and low, respectively.⁵⁰ While sewer costs are estimated to be high, this is due, in part, to the cost of providing service to the southwestern portions of the sub-area, which are more distant from the existing UGB.⁵¹ The City did not consider the costs of sewer service if just the portions of the sub-area closest to the UGB were to be included.

The city found that access to this sub-area is limited to Old Sheridan Road, a County road subject to occasional flooding. There is no evidence in the record to support this finding. The *MGMUP* states portions of the road flood "during 100-year flood events." In fact, adjacent land already within the city is developed with residential uses and there is a stubbed local city from this adjacent area to the Old Sheridan area. There is no reason that this exception area can't be developed with the same traffic pattern as this adjacent land. This is clearly illustrated in Figure 51 the *MGMUP*, Appendix C, page C-100 and in the photos from the local record below.

Moreover, the *MGMUP* states portions of the road flood "during 100-year flood events."⁵² This hardly seems "occasional," nor is there any no evidence regarding where in relation to this subarea flooding occurs or whether its feasible to address flooding issues with infrastructure improvements.

The city found the area is extensively parcelized.⁵³ The record shows large blocks of vacant, buildable land within it. (*MGMUP* p. C-103 and photos below)

The city found the area is "located some distance from existing public utilities, schools and other services."⁵⁴ In fact, water mains abut its boundary, it is crossed by existing electrical lines, and an existing sewer main is within 150 feet.⁵⁵ It is closer to schools than the Riverside South, Redmond Hill Road, or Fox Ridge Road; expansion areas that were included within the boundary.⁵⁶

This area can reasonably accommodate some portion of the identified land need and the Department should reject its exclusion from the UGB.

⁴⁸ Findings, p. 46

⁴⁹ *MGMUP*, p. C-107

⁵⁰ *MGMUP*, p. C-106

⁵¹ *MGMUP*, p. C-104

⁵² *MGMUP*, p. C-108

⁵³ Findings, p. 47

⁵⁴ Findings, p. 47

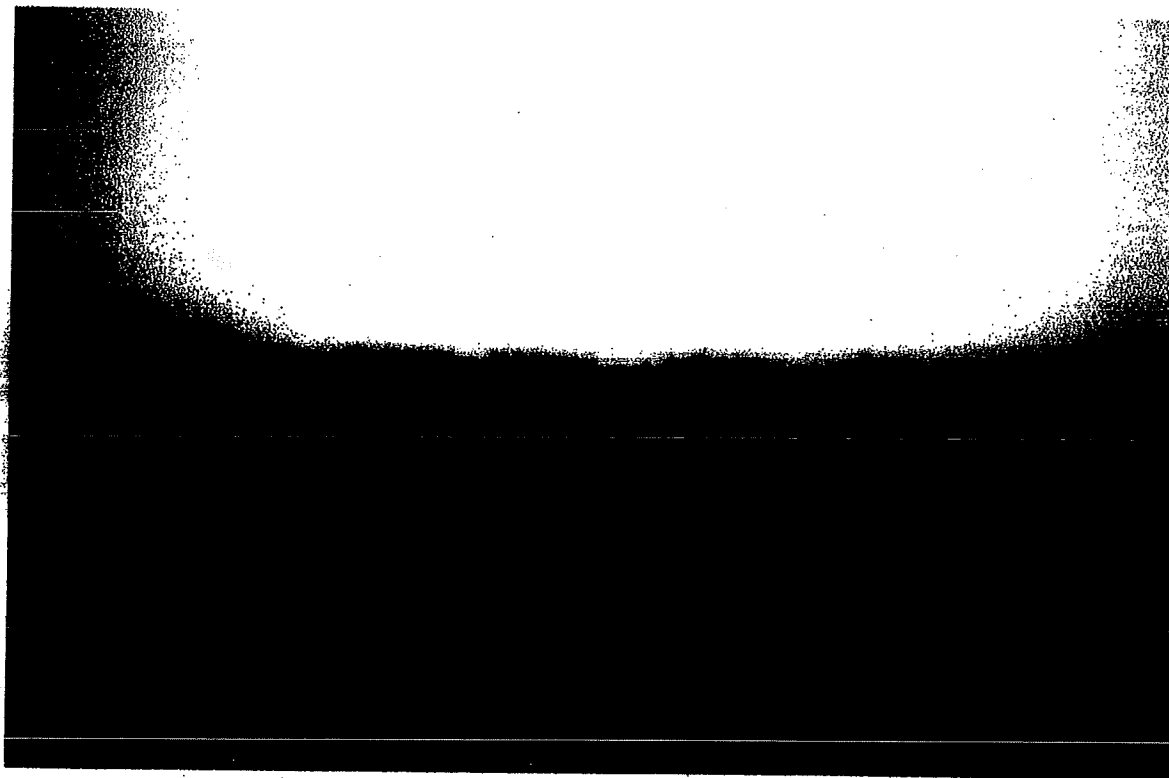
⁵⁵ *MGMUP*, p. C-105

⁵⁶ Findings, p. 48

Old Sheridan Road Area by Existing UGB



Old Sheridan Road Area looking back towards UGB from Church Driveway



Stubbed Road from existing UGB to Old Sheridan Road Area



Bunn's Village. The Bunn's Village exception area contains approximately 126 gross vacant buildable acres.⁵⁷

The record does not support the city's findings that the Bunn's Village exception area cannot reasonably accommodate a portion of identified residential land needs. This area *can* reasonably accommodate some portion of the identified land need.

The city found that the North Yamhill River physically separates the area from the rest of McMinnville and that urbanization might require bridge improvements or new bridges.⁵⁸ The North Yamhill River is not the Willamette River. One can throw a stone across it. There is no evidence to support a finding that construction of a new bridge for local access separated from 99W is unreasonable nor is there anything to suggest that more than one new bridge for local access would be needed. (see photos from local record below). Moreover, while the *MGMUP* also ~~much of the fact that one of the two bridges~~ on 99W that serves the area is classified by ODOT as "functionally obsolete," and that improvements are not planned before 2007, it is important to remember that the planning period runs through 2023.

The city concluded that, "urban services can be extended to this area... at a higher cost relative to other urbanizable areas."⁵⁹ The record contains no actual cost estimates to support this conclusory statement nor does it quantify how much higher the relative costs will be. In fact, the *MGMUP* states that the cost of sewer "have not been calculated," and cost of water service, "have not been determined," but in both cases were, "assumed to be high."⁶⁰ Since the City did not determine the cost of providing urban services to Bunn village either in the aggregate or on a per acre or housing unit basis, they cannot conclude those costs are high.

It will almost always be cheaper to extend urban services into prime flat farmland than exception areas. A higher relative cost does not mean the higher priority exception area cannot reasonably accommodate identified need. In this case, however, there is no evidence in the record to conclude that cost of infrastructure in Bunn Village will be high per buildable acre.

Despite the fact that sewer costs were not calculated and water costs were not determined, the City's findings and the *MGMUP* contain tables ranking the exception areas in which the city concludes that the cost of providing these services to the Bunn Village exception area is high.⁶¹ The city's tables ranking the exception areas assign a service cost of high, medium, or low, based on a raw dollar number, not cost per acre.⁶² Costs exceeding \$800,000 were ranked high, costs of \$200,000 to \$800,000 were ranked

⁵⁷ *MGMUP*, p. C-36

⁵⁸ Findings, p. 45

⁵⁹ *MGMUP*, p. C-27

⁶⁰ *MGMUP*, p. C-29

⁶¹ *MGMUP*, p. C-211; Findings, Table 17, p. 48

⁶² Findings, Table 17, p. 48, see note beneath table

medium and costs under \$200,000 were ranked low, regardless of how many acres would be served.

Because the City failed to calculate cost of service on a per acre basis, the cost of water service to Bunn Village (126 buildable acres) were ranked high, even though the cost might be about \$6350 per buildable acre, while cost of water service to Lawsah Lane (11 buildable acres) were ranked low, even though the cost might be about \$18,180 per buildable acre, roughly triple the cost of service to Bunn Village.

The city's findings rely in part on difficulties with urbanizing the "leg" of Hawn Creek Road.⁶³ The City should consider the possibility of including the 110 buildable acres in the rest of the Bunn Village sub-area and excluding these 16.52 buildable acres. This less-developed portion of the area is about ½ mile in width and contains several large vacant areas. (see photos from local record below).

The city's findings speculate that there may not be property owner interest in annexing to the city.⁶⁴ This is not a valid basis for determining that some portion of need cannot reasonably be accommodated in this exception area.

The city found that public streets in the area currently not improved to city standards.⁶⁵ This is not unusual for roads currently outside the UGB nor is it a basis for determining that some portion of need cannot reasonably be accommodated in this exception area.

The city found that in addition to the Hawn Creek "leg" the other notable area of urbanization is north of Highway 99W.⁶⁶ This finding is in error. An extensive block of vacant buildable land lies south of the highway, along Youngman and Lone Oak Roads. (see photos below and *MGMUP*, pp. C-20 to C-21, p. C-25)

The city found that Highways 99 and 47 have limited potential to provide additional access to private lands in the sub-area.⁶⁷ Most urban land does not have access to a state highway. The same could be said of virtually every expansion area chose to include in its UGB expansion, including areas of prime farmland like Norton Lane and Grandhaven.

Resource land cannot be included within the expanded UGB and Bunn's Village excluded simply because major street, water and sewer improvements are required to urbanize the 126 buildable acres in Bunn's Village. Major street, water and sewer improvements are almost always required when large areas are urbanized. Bunn's Village is no different in this respect. The Three Mile Lane area included within the UGB contains just a little more buildable land than Bunn's Village, 157 gross vacant buildable acres. Highway 18 is wider than the North Yamhill River. Major street, water and sewer improvements must be extended under Highway 18 to urbanize this prime

⁶³ Findings, p. 29

⁶⁴ Findings, pp. 26-27

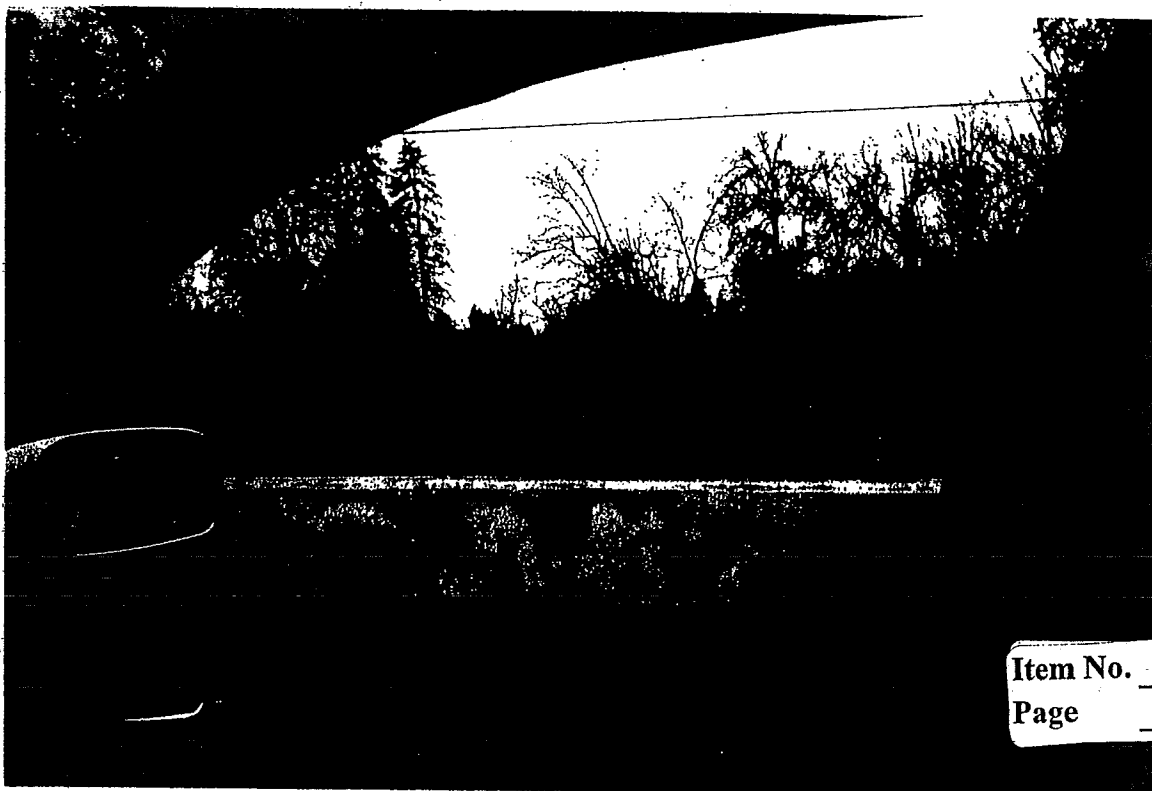
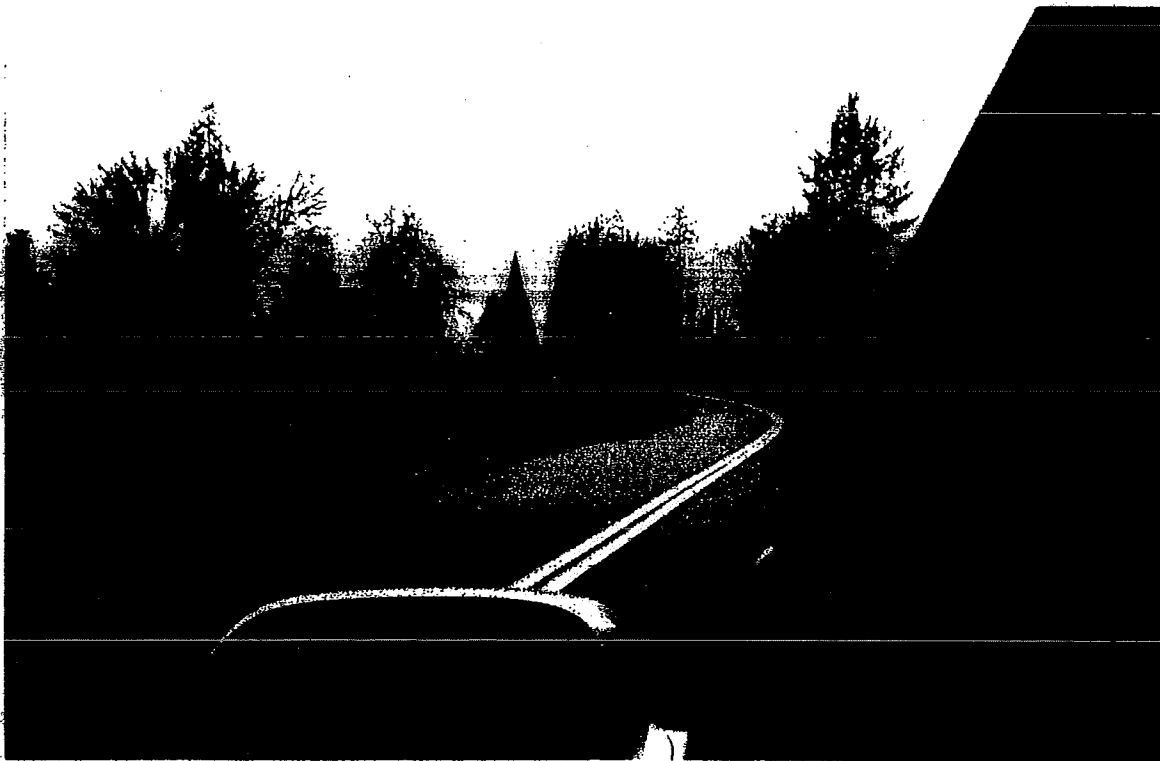
⁶⁵ Findings, p. 28

⁶⁶ Findings, p. 29

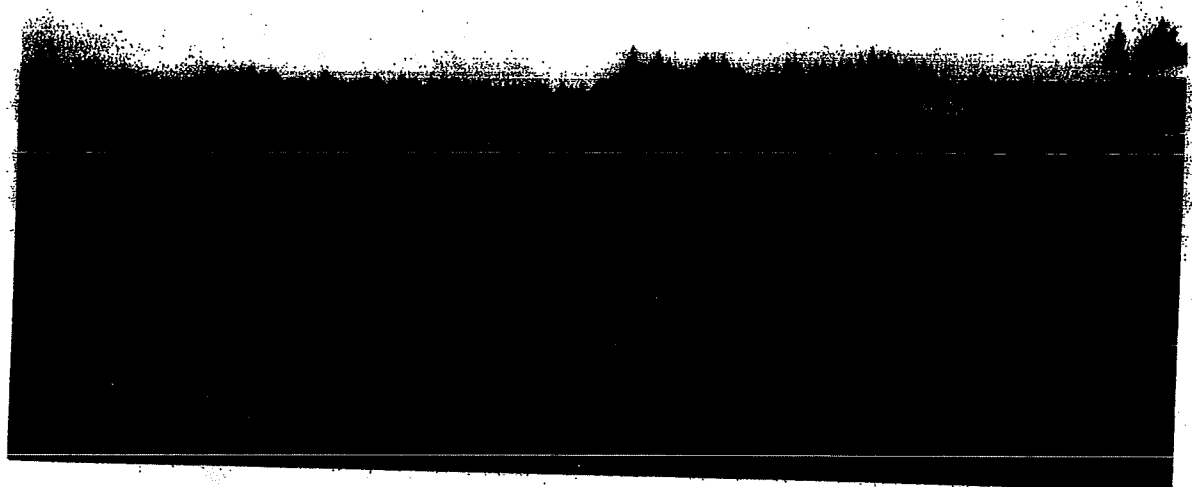
⁶⁷ Findings, p. 45

farmland. To include Three Mile Lane and other resource areas in the UGB while excluding Bunn's Village would violate ORS 197.298.

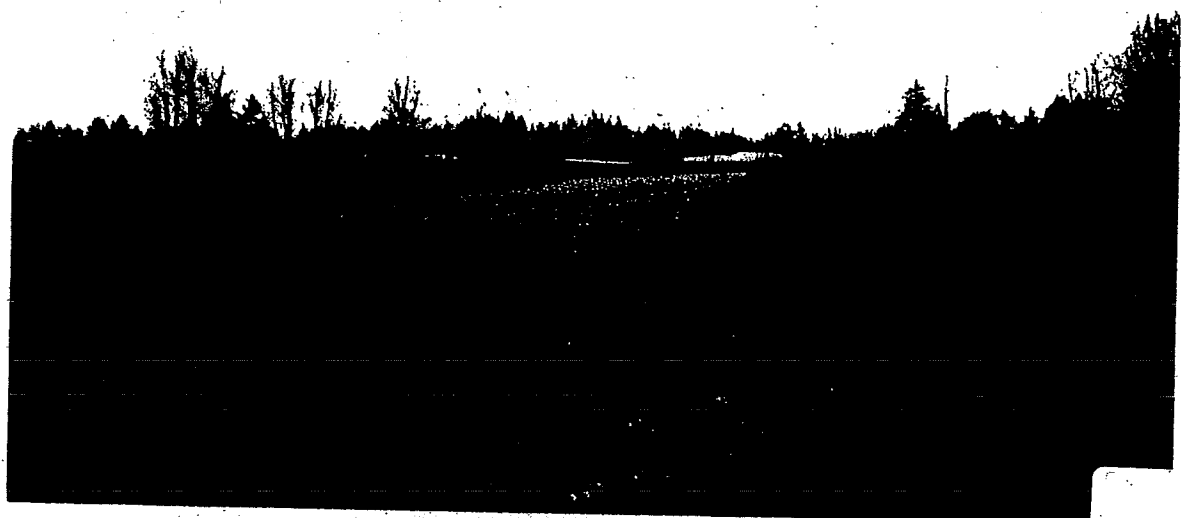
N Yamhill River Near Bunn's Village (Poverty Bend Bridge)



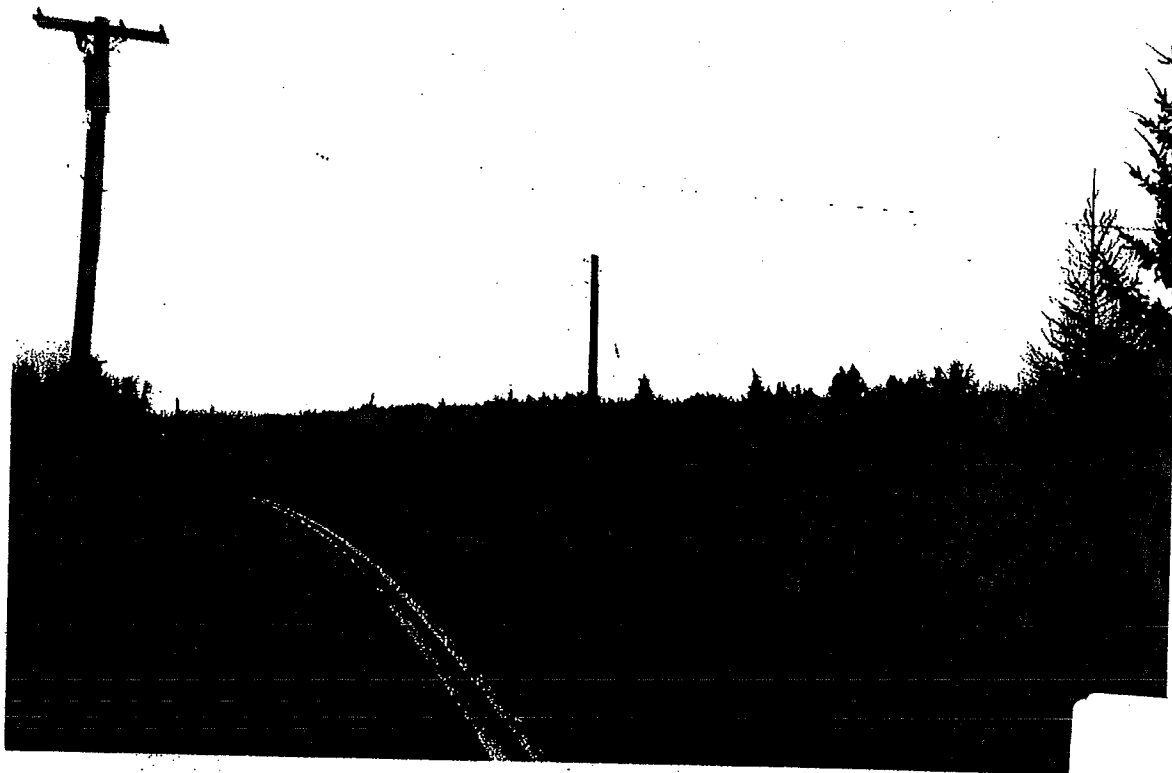
Bunn's Village Along Youngman Road



Bunn's Village Along Lone Oak Road



Bunn's Village Along Hawn Creek Road



Riverside North

The Riverside North area contains over 36 gross vacant buildable acres within the "natural edge" of the Yamhill River that the *MGMUP* states should define the urban area.⁶⁸ It is evident from the aerial photo on page C-42 of the *MGMUP* that virtually all of the land outside the floodplain is vacant. The sub-area is "predominantly flat to gently rolling terrain..."⁶⁹ The *MGMUP* concludes that, "urban services necessary to support [urban densities]... can be extended to it."⁷⁰

The city contends that the area cannot reasonably accommodate *residential* use because of proximity to industrial uses, especially Cascade Steel, and the sewage treatment plant, and railroad. However, the area could also accommodate some portion of the identified need for commercial or office land or other non-residential uses, such as certain infrastructure or institutional uses. The city did not find that Riverside North could not accommodate these other uses.

In addition, the city has elsewhere planned and continues to plan for and allow extensive areas of residential uses adjacent to industrial uses.⁷¹ Also, over the 20-year planning period, potential conflicts with Cascade Steel may cease to exist. There are no assurances the steel mill will continue to operate in light of current trends.

Moreover, the city has not adequately addressed the possibility of bringing Riverside North into the UGB as industrial land, and then rezoning existing industrial land within the existing UGB for residential and/or commercial uses, contrary to Goal 14 and the Goal 2, Part II standards. This would allow land needs to be reasonably accommodated on higher priority lands, rather than lowest priority lands. Among other possible areas, the aerial photos show a large, vacant tract of industrially zoned land directly adjacent to the western edge of the Riverside South sub-area, between Blossom Drive, Miller Street, and Colvin Lane.⁷² This tract would be a good candidate for such redesignation to residential and would reduce potential land use conflicts.⁷³ Ironically, similar potential conflicts are the very reasons the city advances for *excluding* Riverside North.

Finally, this is a large area. It contains developable land that is up to half a mile from either the sewage treatment plant or any industrial use. There should be ample opportunities to provide buffering between any incompatible uses.

The city's findings, as in the case of other exception areas not included in the UGB expansion, speculate that there may not be property owner interest in annexing to the city. This is not a valid basis for determining that some portion of need cannot reasonably be accommodated in this exception area.

⁶⁸ *MGMUP*, p. C-45

⁶⁹ *MGMUP*, p. C-41

⁷⁰ *MGMUP*, p. C-49

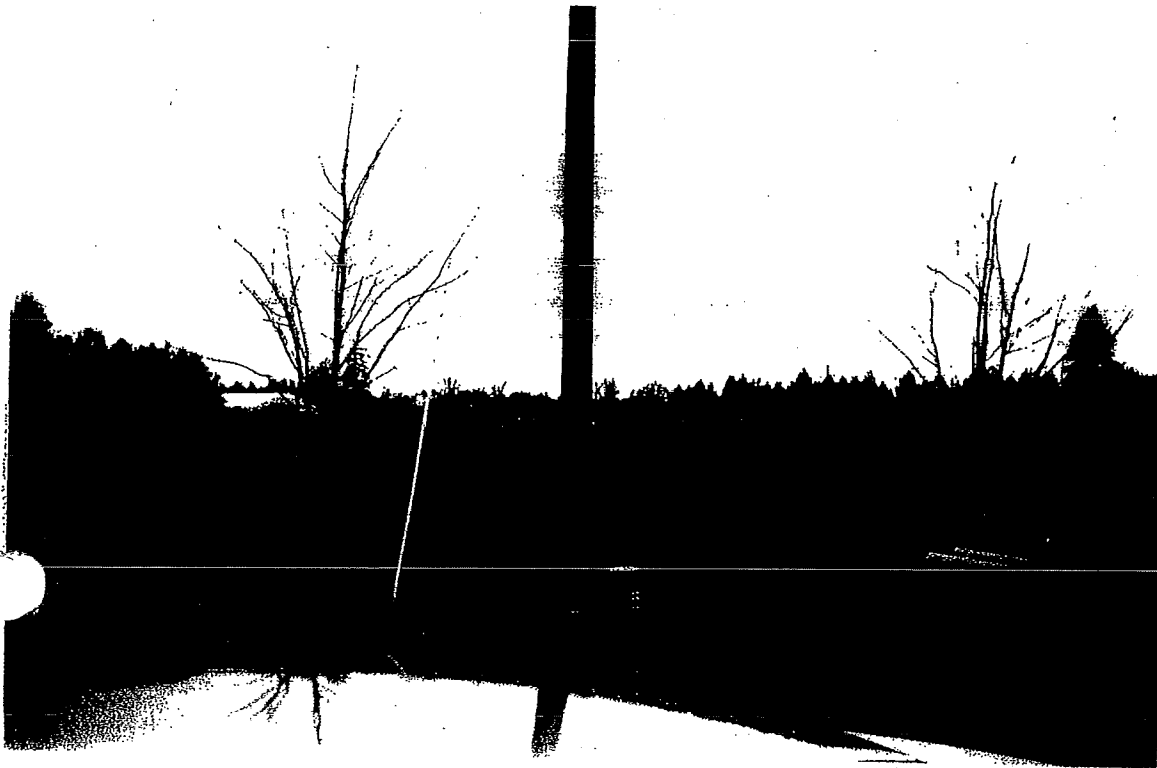
⁷¹ See *MGMUP*, p. 7-30.

⁷² *MGMUP*, pp. C-57, C-4, p. 7-30

⁷³ 1000 Friends 2004 Exceptions, p. 23

This area can reasonably accommodate some portion of the identified land need and it should be included within the UGB ahead of lower priority resource lands. (see photos from local record below).

Vacant Buildable Land in Riverside North



Booth Bend Road

The Booth Bend Road exception area contains approximately 13 gross vacant buildable acres.⁷⁴ Adjacent areas within the existing UGB are developed residential areas.⁷⁵

The record does not support the city's findings that the Booth Bend exception area cannot reasonably accommodate a portion of identified land needs.

The city found that the cost of providing public services necessary to support urbanization is high, relative to the amount of buildable land.⁷⁶ There is no evidence in the record to support this conclusory finding. The record contains no actual cost estimates to support this statement nor does it quantify the cost of providing urban services to Booth Bend on a per acre or housing unit basis. Since the City did not determine the costs, they cannot conclude those costs are high.

The city found the area is "located some distance from existing public utilities, schools and other services."⁷⁷ This conclusory finding is at odds with the evidence. There is an existing water main and an existing electrical line extending into the subarea, and a sewer main is just over 100 feet from its boundary.⁷⁸ In fact, it is closer to existing schools than the Riverside South, Redmond Hill Road, or Fox Ridge Road; two expansion areas that were included within the boundary.⁷⁹ Furthermore, in 2003 the school district purchased a future elementary school site less than 1000 feet from the boundary of the sub-area.⁸⁰

As with other excluded exception areas, the city's findings speculate that there may not be property owner interest in annexing to the city.⁸¹ This is not a valid basis for determining that some portion of need cannot reasonably be accommodated in this exception area. (see photos from local record below).

The City proposes to include the Three Mile Lane and Lawson Lane areas on the same side of Highway 18 as the Booth Bend Road area. The Booth Bend Road area can also reasonably accommodate some portion of the identified land need and the Department should reject its exclusion from the UGB if these other areas are included.

⁷⁴ MGMUP, p. C-88

⁷⁵ MGMUP, p. C-84

⁷⁶ Findings, p. 46

⁷⁷ Findings, p. 47

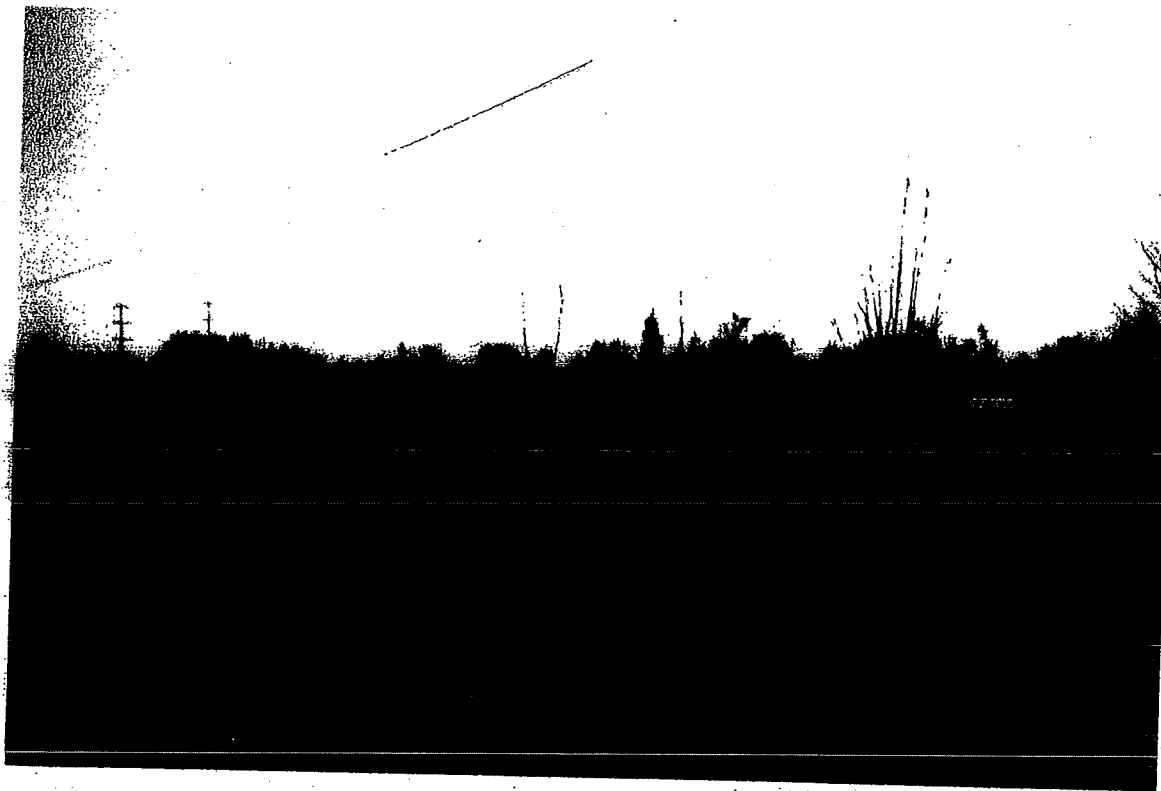
⁷⁸ MGMUP, p. C-91

⁷⁹ Findings, p. 48

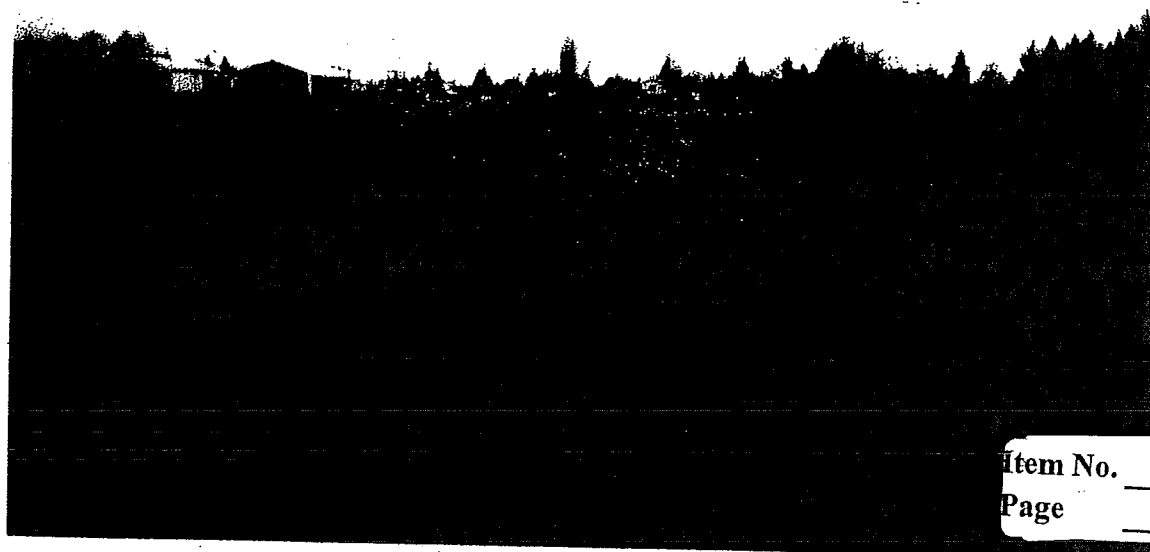
⁸⁰ News-Register article, attached to objections filed February 3, 2006.

⁸¹ Findings, pp. 35-36

Booth Bend Road Area near new school site. Housing in UGB in background



Booth Bend Road Area from Morgan Lane



Westside Road

The evidence in the record does not support a finding that the Westside Road exception area could not reasonably accommodate a portion of identified residential land needs. According to the *MGMUP*, it contains approximately 14 gross vacant buildable acres (40% of the total acreage in the sub-area).⁸² Adjacent areas within the existing UGB are already developed or planned to develop with residential uses.⁸³ It is within a ¼ mile of a City Park (Tice Park).⁸⁴ It is within about ½ mile of the Grandhaven Elementary School and a future middle school site.⁸⁵ There are two possible alternatives to connect the sub-area to the city's sanitary sewer system.⁸⁶ The area can be served by a potable water line placed either under Baker Creek or suspended above it.⁸⁷ Electrical service could be provided at low cost.⁸⁸

~~The City's findings speculate that there may not be property owner interest in annexing to the city. This is not a valid basis for determining that some portion of need cannot reasonably be accommodated in this exception area.~~

The City's findings point out that Westside Road is currently not improved to urban standards. This is not unusual for a road that is currently outside the UGB nor is it a basis for determining that some portion of need cannot reasonably be accommodated in this exception area.

B. Excluded Resource Areas

As previously noted, under ORS 197.298 and Goal 14, if the UGB is amended to include resource lands, the city must look first to land of lower capability soils and only include more productive soils if identified land needs cannot be reasonably accommodated on the less productive soils. The proposed UGB amendments fail to comply with these criteria.

There are extensive areas of poorer quality soils adjacent to the existing UGB, particularly to the west of Hill Road as well as smaller areas north and east of the airport and between the two Riverside exception sub-areas. Most of the resource land proposed for inclusion in the UGB is classified as prime farmland, with Class I and II soils. The City failed to include less productive resource areas without an adequate factual basis in violation of both statutes and rule.

West Hills

The area referred to as the "West Hills" in the current amendments to the *MGMUP* contains two distinct areas. A crescent-shaped area of steep slopes exceeding 25% and

⁸² *MGMUP*, p. C-9

⁸³ *MGMUP*, p. C-5

⁸⁴ *MGMUP*, pp. C-5, p. C-8

⁸⁵ *MGMUP*, pp. C-16, C-18

⁸⁶ *MGMUP*, p. C-9

⁸⁷ *MGMUP*, p. C-12

⁸⁸ *MGMUP*, p. C-13

lands west of and beyond that crescent defines the upper West Hills area, which is generally more distant from the UGB.⁸⁹ We agree with the conclusion that lands within and beyond this crescent cannot reasonably accommodate identified land needs.

The lower West Hills area is more gently sloped and is adjacent to the existing UGB. It contains approximately 200 acres with slopes ranging upward from 7%.⁹⁰ The gentlest slopes are generally adjacent to the existing UGB. Two small, isolated areas exceed 25% in slope.⁹¹ This area can clearly accommodate identified land needs. The reasons set forth for its exclusion in the amendments to the *MGMUP* findings do not stand up to scrutiny.

The purported justification for the exclusion of this area rests primarily on two factors: a) the area is generally above the 275-foot level that marks the service area under the existing municipal water system; and b) the findings contend that the area could only accommodate, "low-density single family residential" development."⁹²

Water

It is often necessary to upgrade infrastructure to serve a UGB expansion area. In this case, those upgrades are already needed and *planned*. Land within the *existing* UGB, including land within the city limits, ranges up to and above 415' in elevation. The municipal utility Water Master Plan was acknowledged as part of a different work task in the city's periodic review. It includes a system upgrade to serve areas up to 415' in elevation. The location of proposed new reservoirs is in the lower "West Hills" expansion area. This project is scheduled to have begun in 1999.⁹³ Because of the legal standards that govern the location of municipal utility facilities in resource zones, inclusion of the lower West Hills area will facilitate their construction.

The 415' elevation "occurs at roughly the mid-point of the Class III soils in the West Hills area."⁹⁴ Because upgrades to the water system to serve areas up to 415' in elevation are already needed and planned, the provision of water cannot be a legitimate justification for excluding lands in the lower West Hills that are below that elevation.

In addition, the findings do not explain why it is unreasonable to either revise the planned system improvements to locate the new reservoirs higher so as to serve additional higher-priority lands above 415 feet, or to plan a second upgrade later in the planning period so as to serve additional lands. In fact, the findings suggest the city already has plans for a reservoir, "at an elevation of some 510 feet."⁹⁵

⁸⁹ "Composite Constraints and Soils Map" produced by city staff, attached to objections filed February 3.

⁹⁰ Amendments to findings, p. 11

⁹¹ See topographical map, attached to objections filed February 3.

⁹² Amendments to findings, p. 12

⁹³ McMinnville Water & Light Water Master Plan, excerpts attached to objections filed February 3.

⁹⁴ Amendments to findings, p. 12

⁹⁵ Findings, p. 57

Slopes and Density

Because the city's contentions regarding water service to the lower West Hills expansion area do not hold water, we are left with the City's contentions regarding slopes and density as a purported justification for their exclusion.

The findings contend this area cannot reasonably accommodate anything other than low-density single family residential development, that the city needs medium and high density rather than low density residential development and that therefore this area of poorer soils cannot reasonably accommodate identified land needs. The findings also imply the cost of medium and high density housing in this area would be inconsistent with the cost of identified housing needs.

These findings do not stand up to scrutiny.

First, almost 2/3 of the additional land projected for housing beyond the 2003 UGB is for low-density single-family housing. The MGMUP found a need for an additional 341 buildable acres beyond the 2003 UGB for low-density single-family housing in the R-1 and R-2 zones at densities of 3.5 and 4.3 units per gross acre.⁹⁶ This need for additional land for low-density single-family housing exceeds all the buildable land in all the exception areas included in the boundary expansion by approximately 115 acres.⁹⁷ There is no reason this identified land need cannot be met in the lower West Hills area.

Second, the conclusion that the slopes in the lower West Hills cannot accommodate medium or high-density housing is not supported by evidence in the record and is simply wrong. The MGMUP found a need for about 79 buildable acres beyond the 2003 UGB for medium-density housing in the R-3 zone at densities of 5.4 units per acre, a need for about 80 buildable acres beyond the 2003 UGB for medium density housing in the R-4 zone at densities of 8.8 units per acre, and a need for about 37 buildable acres beyond the present UGB for high-density housing in the R-5 zone at densities of 15.0 units per acre.⁹⁸

There is nothing inherent in slopes greater than 7% or even 20% that precludes development of housing at 5.4 units per acre, 8.8 units per acre, or even more than 15 units per acre.

Astoria's higher density residential development is on its steepest slopes. Astoria's R-3 and R-2 zone are primarily located on slopes steeper than 10%. The R-3 zone allows up to 26 units per acre, greater density than permitted in any of McMinnville's existing or proposed zones. Astoria's R-2 zone allows up to 16 units per net acre.⁹⁹

⁹⁶ MGMUP, Table 11, p. B-15. This number must adjusted slightly downward to account for efficiency measures identified in Table 16 of the MGMUP (p. 7-28.)

⁹⁷ MGMUP, p. 6-18

⁹⁸ MGMUP, Table 11, p. B-15. This number must adjusted slightly downward to account for efficiency measures identified in Table 16 of the MGMUP (p. 7-28.)

⁹⁹ see e-mail from Astoria's Planning Director, topographical map, and excerpts from Astoria's zoning code, attached to objections filed February 3, 2006

The photographic examples of multi-family housing development on slopes ranging from 6% to over 20% percent that are reproduced below are part of the local record. They dispel any notion that the lower West Hills cannot accommodate medium and/or high-density housing.

Third, even if the findings were correct in concluding that the lower West Hills could only accommodate low-density housing, the City proposes to allocate low-density housing to every expansion area proposed for inclusion, including resource areas. The City could upzone low-density land within the existing UGB or reallocate land in other expansion areas to medium and/or high density and replace that low density housing within this higher-priority area.

Fourth, the implication that housing costs in the lower West Hills would be inconsistent with the cost of identified housing needs is not based on evidence in the record. The City's housing needs analysis made no attempt to correlate future income levels with needed housing nor did the analysis determine what price levels were needed for the various needed housing types.

Transportation

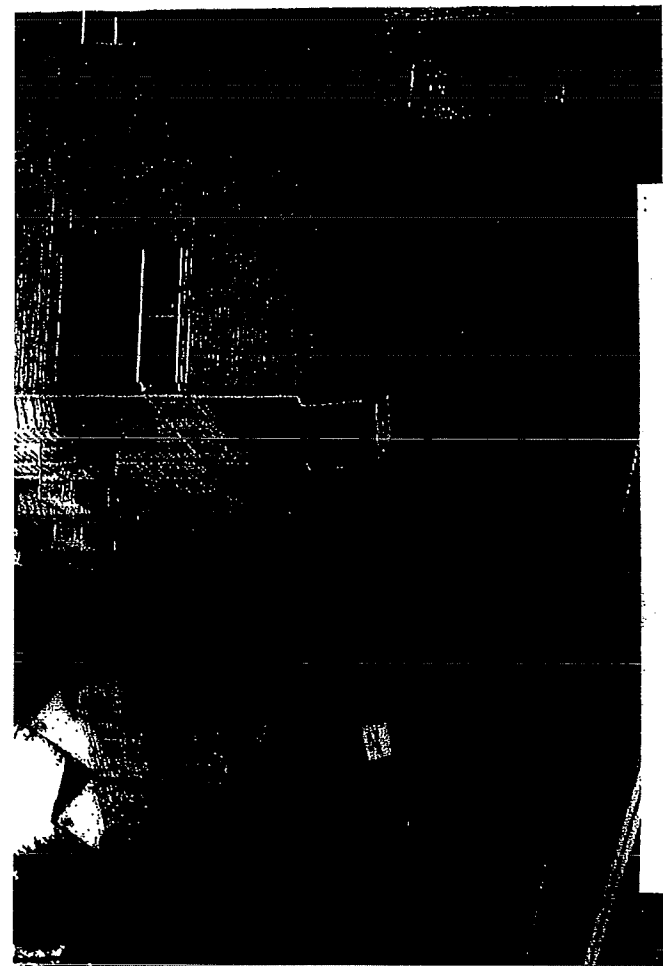
The draft findings conclude that extension of roads into the area "would require expensive design and construction measures." This conclusion is cited as evidence that the area cannot reasonably accommodate medium and high-density housing.¹⁰⁰ There is no evidence in the record to support this conclusory finding nor is "expensive" defined. Furthermore, the findings do not attempt to compare the cost of providing urban services to this area relative to other areas.

The findings also contend that distance from existing or planned non-residential services render medium and high density housing in this area infeasible.¹⁰¹ At its closest, the area is with ½ mile of the new high school site. Moreover, the findings do not explain why the City could not plan for non-residential services closer to this area or why distance from services render 5,000 or 6,000 sq. ft. lots (the minimum lot sizes in the R-4 zone and R-3 zones) infeasible.

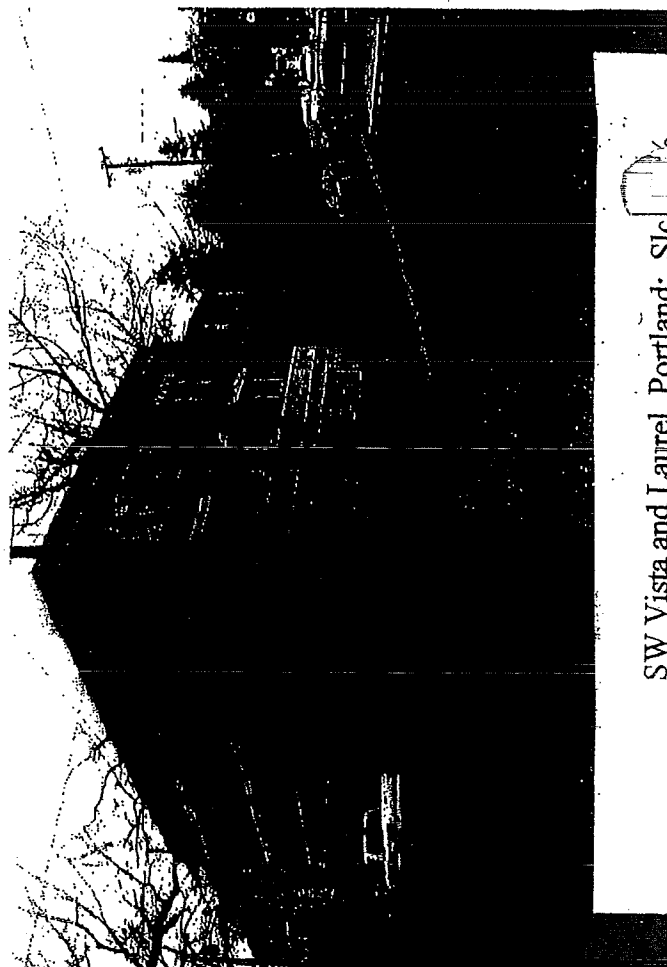
For the reasons cited above, the lower West Hills can reasonably accommodate identified land needs for either low-density single-family housing, or for medium or high-density housing.

¹⁰⁰ Amendments to findings, p. 12

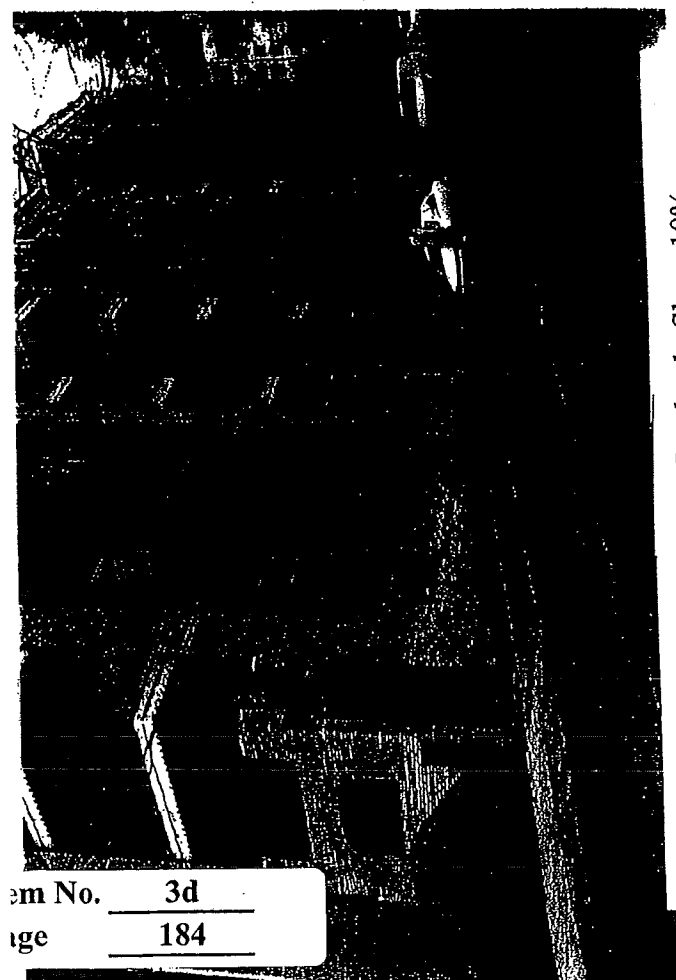
¹⁰¹ Amendments to findings, p. 13



NE 92nd and Russell, Portland: Slope > 20%



SW Vista and Laurel, Portland: Slope > 20%



742 SW Vista, Portland: Slope 10%



2323 SW Park Place, Portland: Slope 11%

Area North of Fox Ridge Road

The City proposes to include tax lot 4418-700 in the UGB and exclude all other areas of poorer soils north of Fox Ridge Road from the UGB expansion. In considering the area north of Fox Ridge Road, the findings only discuss tax lot 700 and tax lots 4513-100 and 200. Additional higher priority land is located immediately west of tax lot 100, extending west to include additional broad areas of predominantly Class III soils between the floodplain and the area of steep slopes to the south. This higher priority area extends westward into a large exception area.¹⁰²

The area includes several hundred acres of buildable land between the floodplain and the band of unbuildable slopes over 25%. It is up to 2000 feet wide and includes considerable amounts of land below the 275' elevation level that marks the service area under the existing municipal water system. It includes even more land below the 415' elevation level that marks the service area of the system's planned upgrade. (see various maps in record).

This area can clearly accommodate identified land needs. The record does not support the reasons set forth for its exclusion in the amendments to the *MGMUP* findings.

The findings conclude that Class III and IV soils only comprise "a small portion" of tax lots 100 and 200, predominantly in the steeper portions where grades exceed 25%.¹⁰³ This conclusion is simply wrong. Soil maps in the record establish that both tax lots are comprised of predominantly Class III and IV soils even if one excludes the small areas of steep slopes.¹⁰⁴

The findings conclude that if TL 100 and 200 were included in the UGB, an island of farm parcels would be created, cutting off tax lots 4418-100 and 1100.¹⁰⁵ This would only occur if the portions of TL 100 in the Baker Creek floodplain were included in the UGB. There is no reason to include this portion of the tax lot (which is primarily Class I soils) and staff memoranda dated October 14 and November 30 recommended including the portion of the tax lot south of the floodplain in the UGB, but not including the floodplain.

The findings also conclude that bringing in tax lot 200 and/or 300 would create a large UGB border with actively farmed land.¹⁰⁶ The inclusion of the rest of the higher-priority area west of tax lot 100 would eliminate or minimize this conflict. The findings also do not explain why this border renders urbanization unreasonable, nor do they consider mitigation measures.

¹⁰² see Yamhill County zoning maps attached to objections filed February 3, 2006

¹⁰³ Amendments to findings, p. 9

¹⁰⁴ "Composite Constraints and Soils Map" produced by city staff, attached to objections filed February 3.

¹⁰⁵ Amendments to findings, p. 10

¹⁰⁶ Amendments to findings, p. 10

In considering compatibility with agricultural land, the findings cite abutment with farmland of approximately 1600 feet.¹⁰⁷ The Southwest expansion area included within the proposed UGB directly abuts farmland along its southern edge for a similar distance. This area is primarily comprised of prime Class II soils. The amended Three Mile Lane expansion area directly abuts farmland for over a mile. This area is primarily comprised of prime Class I and II soils. The findings do not explain why urbanization of these lower-priority areas do not pose unreasonable conflicts despite their long border with adjacent farmland, while urbanization of these poorer soils would. In addition, the West Hills South area directly abuts farmland for over a mile, but the findings do not find this to be an unreasonable conflict, either.

The findings conclude that there would only be "perhaps a 200 foot wide buildable corridor" on tax lots 100 and 200 between the steep slopes to the south and the floodplain.¹⁰⁸ This finding is in error. The buildable corridor between the floodplain and the unbuildable 25% slopes would be approximately 700' to 1400' wide.¹⁰⁹

The findings conclude that since no street connection could be made to the north, tax lots 100 and 200 would have to be served by a dead-end street. The record does not support this conclusion. The area could connect to Fox Ridge Road to the south or connect to the west through the Hidden Hills exception area.¹¹⁰ In fact, the City already owns one of the intervening parcels to the south.¹¹¹

For the reasons cited above, the area north of Fox Ridge Road, including tax lots 200, 100 and land west of tax lot 100 can reasonably accommodate identified land needs.

Area North of Highway 18 by Evergreen Aviation Museum

There is an area of predominantly Class III soils between the Evergreen Aviation Museum and Olde Stone Village. With the Evergreen UGB amendment cited above in Objection 11, this land is virtually surrounded by the existing UGB. Another area of Class III soils is adjacent to the other (west) side of the Air Museum.

The findings lump these areas in with other lands north of Olde Stone Village and east of the airport and reach several conclusions regarding all of these lands based on the McMinnville Municipal Airport Master Plan and the traffic pattern associated with the downwind leg of Runway 4/22. These findings appear to be directed towards lands east of the airport and north of Olde Stone Village but because the evidence on which they are based is not in the record it is not possible to ascertain whether this is the case or to assess their accuracy.¹¹²

¹⁰⁷ Amendments to findings, p. 10

¹⁰⁸ Amendments to findings, p. 11

¹⁰⁹ "Composite Constraints and Soils Map" produced by City staff as a power point slide, attached to objections filed February 3, 2006..

¹¹⁰ see Yamhill County zoning maps attached to objections filed February 3, 2006

¹¹¹ Testimony in the local record, attached to objections filed February 3, 2006.

¹¹² Amendments to findings, pp. 6-8

For example, the draft findings state, "[t]his land, if brought into the UGB would be actively farmed on three of its four sides."¹¹³ This finding is clearly inaccurate regarding the Class III land virtually surrounded by the existing UGB.

The findings also conclude "[n]eeded low-density residential development can be accommodated within the existing McMinnville urban growth boundary and in exception areas recently added to the boundary (Fox Ridge Road, Redmond Hill Road, and Riverside South)."¹¹⁴ This is inconsistent with *MGMUP*.

The *MGMUP* found a need for an additional 341 buildable acres beyond the 2003 UGB for low-density single-family housing in the R-1 and R-2 zones at densities of 3.5 and 4.3 units per gross acre.¹¹⁵ This additional need exceeds the amount of buildable land in the exception areas cited in the findings by approximately 125 acres.

In fact, the *MGMUP* allocates considerable amounts of low-density residential development to prime farmland proposed for inclusion in the boundary. The findings do not consider whether some of this identified residential land need can be accommodated on this area of poorer soils by the Air Museum nor do the findings consider or explain why the area cannot accommodate some other category of land need, such as offices.

For these reasons, the City has not adequately justified the exclusion of the higher-priority land by the Air Museum.

Riverside Resource Area

There is a resource area of predominantly Class II and III soils located between the Riverside North and Riverside South exception areas.¹¹⁶ Unlike the Three Mile Lane and Norton Lane areas, which the city included in its UGB expansion, the Riverside Resource area contains no Class I soils. The area is adjacent to the city limits and existing UGB.¹¹⁷

1000 Friends and the Oregon Department of Agriculture testified regarding the need to comprehensively consider all lands adjacent to the existing UGB. As ODA stated, "a UGB land priority analysis needs to be coordinated around the entire UGB."¹¹⁸ The lack of such analysis violates OAR 660, Division 4.

Despite this testimony, and despite our reference to this area in our local testimony, the city has completely ignored this area. The city has not included any analysis or adopted any findings regarding the ability of the Riverside Resource area to accommodate identified land needs, nor has the city explained why it included other resource areas with Class I soils instead of this area. This is also true of several other areas adjacent to the

¹¹³ Amendments to findings, p. 7

¹¹⁴ Amendments to findings, p. 8

¹¹⁵ *MGMUP*, Table 11, p. B-15. This number must adjusted slightly downward to account for efficiency measures identified in Table 16 of the *MGMUP* (p. 7-28.)

¹¹⁶ See soils maps attached to objections filed February 3, 2006.

¹¹⁷ See various maps in record

¹¹⁸ Attachments to objections filed February 3, 2006

existing UGB, including land south of the airport and land south of Three Mile Lane that is west of the Booth Bend Road area.

C. Resource areas included in the UGB expansion

Several of the resource areas included within the UGB are particularly problematic. Chief among these are the Three Mile Lane and the Southwest expansion areas. For these areas and for the Grandhaven and Norton Lane areas as well, the city has not satisfied the legal criteria necessary to justify their inclusion in the UGB.

Three Mile Lane

Of all the resource areas included within the UGB, the Three Mile Lane area is the most objectionable. This area is located south of Three Mile Lane, a 5-lane limited access state highway varying in width from approximately 600' in the vicinity of the interchange to approximately 250'.¹¹⁸ It creates a physical barrier that isolates that area from the rest of the city, discouraging non-vehicular ingress and egress. The area is comprised of primarily Class I and II soils.¹¹⁹ The city proposes extensive new residential and commercial development south of the highway in this area of prime farmland. Currently the hospital, the airport and offices related to the airport and hospital are the primary urban uses south of the highway.

The city plans for approximately 1000 housing units and both neighborhood and general commercial development in the Three Mile Lane area.¹²⁰ The city has not satisfied the legal criteria necessary to justify inclusion of this area in the UGB.

1: Goal 14 requires the city to consider the compatibility of urban development within the expansion area with nearby agricultural activity.

The Oregon Department of Agriculture and 1000 Friends of Oregon testified in 2003 and in the recent remand hearings regarding the need for the city to address this criterion. As ODA stated in 2003:

“Goal 14, Factor 7, requires consideration of the compatibility of the proposed uses within the new urban area with nearby agricultural activities. We found little if any analysis that addresses this requirement.”¹²¹

Despite this testimony, the city has not analyzed the compatibility of proposed uses in either the Three Mile Lane boundary adopted in 2003 or the amended boundary adopted

¹¹⁸ MGMUP, p. C-163 and testimony in local record

¹¹⁹ MGMUP, p. C-167

¹²⁰ MGMUP, pp. 7-15 to 7-16, p.7-28

¹²¹ Attachments to objections filed February 3, 2006

in 2006. The amended boundary creates an unbuffered edge of over a mile with actively farmed ground in an EFU zone.¹²²

The city's sole finding of compatibility for all the expansion areas added to the boundary is the conclusory statement adopted in 2003 that:

"The Council concludes that the proposed expansion areas will not create compatibility conflicts between uses. Much of the existing UGB is adjacent to resource lands that are currently in agricultural uses. Expansion of the UGB would not create new uses that would create new types of compatibility issues."¹²³

For these reasons, the city's submittal violates Goal 14, Goal 2 and OAR 660, Division 4.

2. The city has noted the existence of a "Weapons Training Facility" in its findings, its submittals to DLCD, and its staff memoranda. The city has cited this facility in its findings as a justification for excluding lands with poorer soils east of the airport. The city found the facility to be incompatible with urban residential development.¹²⁴

The city reached a similar finding in exceptions filed with DLCD:

"In summary, the City finds it entirely inappropriate to locate residential or commercial land uses... in close proximity to an area used for day and night time training of SWAT and police personnel from the region. The City assumed that this type of incompatibility would be readily recognized and that no further analysis would be necessary."¹²⁵

In the recent remand hearings the city again put forth the Weapons Training Facility as a reason the higher-priority land could not reasonably accommodate of urban development.¹²⁶

The Weapons Training Facility is actually located closer to the area of the Three Mile Lane expansion area proposed for residential use (about $\frac{3}{4}$ mile) than to the edge of the higher-priority area of Class IV soils east of the airport (over 1 mile).¹²⁷ We therefore conclude that much of the Three Mile Lane area, which is predominantly Class II soils and is closer to the weapons training facility is even more inappropriate for residential or commercial land uses and likewise cannot reasonably accommodate urban development.

¹²² Figure 12, attached to Ordinance 4841, *MGMUP* p. 161, Findings p. 72

¹²³ Findings, p. 74

¹²⁴ Findings, p. 52

¹²⁵ Exception to DLCD report on McMinnville's Task 1 and UGB Amendment, p. 21, submitted by McMinnville April 9, 2004

¹²⁶ City of McMinnville staff memorandum, October 14 2005, p. 5 (attached)

¹²⁷ Attachments to objections filed February 3, 2006

Despite our local testimony, the city's findings do not explain why the weapons facility renders urban development on poorer soils inappropriate, but does not have the same affect on prime soils that are closer to it.

For this reason, the city's submittal violates Goal 2, Goal 14 and ORS 197.298.

3. The city justifies the inclusion of the Three Mile Lane area in part based on the need for a Neighborhood Activity Center in this vicinity.¹²⁸

The local record suggests the Norton Lane Area, directly across Highway 18, is a much better location for a Neighborhood Activity Center on the south side McMinnville. This area is in close proximity and has easy pedestrian access to the new Chemeketa Community College location, movie theaters, restaurants, medical offices, and government offices including the State Department of Human Services and the new Yamhill County Housing Authority complex. The area is adjacent to existing residential development and its development could incorporate the new college campus and the continued redevelopment of the Tanger outlet mall. It is on the same side of the Highway as the existing urban area, an existing frontage road already provides access to downtown and the rest of McMinnville, and access to Joe Dancer Park could be developed.¹²⁹

In contrast, the Three Mile Lane Area south of Highway 18 is not a good location for a Neighborhood Activity Center. The Highway is a 5-lane limited access facility with frontage roads. It creates a physical barrier that isolates that area from the rest of the City, discouraging non-vehicular ingress and egress.

4. As detailed in earlier portions of this objection, there are exception areas and higher-priority resource areas that can reasonably accommodate identified land needs. For this reason, inclusion of the Three Mile Lane area violates Goal 14 and ORS 197.298.

Southwest Area

The Southwest area is also particularly objectionable. The area is prime agricultural land.¹³⁰ It is actively farmed and is adjacent to other prime agricultural land that is actively farmed.¹³¹ The city's decision calls for medium-density and high-density housing along Hill Road, which forms the western boundary of the area.¹³²

The city has not satisfied the legal criteria necessary to justify inclusion of this area in the UGB.

¹²⁸ Findings, p. 22, pp. 46-47, p. 148

¹²⁹ See attachment to objections filed February 3, 2006

¹³⁰ See attachment to objections filed February 3, 2006 and MGMUP, p. C-173

¹³¹ Findings, pp. 72-73

¹³² MGMUP, p. 7-11

Local testimony from an adjacent farmer and objections filed in 2003 point out that placing residential development directly adjacent to the commercial agricultural operations across Hill Road makes future conflicts nearly inevitable.¹³⁴

Goal 14 requires the city to consider the compatibility of urban development within the expansion area with nearby agricultural activity. Despite the local testimony regarding potential conflicts and despite the previously cited testimony from ODA and 1000 Friends regarding the need to address this criterion, the city has not analyzed the compatibility of proposed uses in the Southwest area with nearby agricultural activities for either the boundary adopted in 2003 or the amended boundary adopted in 2006.

As previously noted, the city's sole finding of compatibility for all the expansion areas added to the boundary is the conclusory statement adopted in 2003 that:

"The Council concludes that the proposed expansion areas will not create compatibility conflicts between uses. Much of the existing UGB is adjacent to resource lands that are currently in agricultural uses. Expansion of the UGB would not create new uses that would create new types of compatibility issues."¹³⁵

For these reasons, the city's submittal violates Goal 14, Goal 2 and OAR 660, Division 4.

In addition, there are exception areas and higher-priority resource areas that can reasonably accommodate identified land needs. For this reason, inclusion of the Three Mile Lane area violates Goal 14 and ORS 197.298.

Grandhaven and Norton Lane areas

The city has also not satisfied the legal criteria necessary to justify the inclusion of the Grandhaven and Norton Lane areas in the UGB. Like the Three Mile Lane and Southwest area, the city has not analyzed the compatibility of proposed uses in the Grandhaven and Norton Lane areas for either the boundaries adopted in 2003 or the amended boundaries adopted in 2006. For both of these areas the amended boundaries create unbuffered edges of over a mile with actively farmed agricultural land in an EFU zone.¹³⁶

For the reasons outlined in the various portions of this objection, McMinnville's proposed UGB amendment does not comply with ORS 197.298, ORS 197.732, Goal 14 and Goal 2.

Remedy:

¹³⁴ See *MGUMP*, p. C-171, 2003 testimony of Jennifer Noble, 2003 objections of 1000 Friends, p. 19

¹³⁵ Findings, p. 74

¹³⁶ Figure 12, attached to Ordinance 4841, *MGMUP* p. 161, Findings p. 72

The Department should remand the *MGMUP* with instructions to conduct a UGB land priority analysis that is coordinated around the entire UGB, comply with Goal 14, Factor 7, and include the exception areas and higher priority resource areas identified in this objection before including prime farmland in the UGB expansion.

OBJECTION 12: MCMINNVILLE'S SUBMITTAL IS INCOMPLETE.

In 2004 LCDC remanded all portions of the *MGMUP* that were not explicitly approved. The current submittal includes only those portions of the plan and findings that were amended by the city and county. Neither portion of the current submittal included other remanded parts of the plan nor is it apparent that the city or county has readopted them, either with or without changes, although it was apparently their intent to do so.

Remedy:

Pursuant to OAR 660-025-0130, the Department should notify the city and county that the submittal is incomplete and inform them that those portions of the *MGMUP* that have not been previously approved and have not been included in the current submittal cannot be acknowledged unless they are readopted and resubmitted to the Department.

OBJECTION 11: THE CITY HAS FAILED TO COMPLY WITH GOAL 1 AND ITS LOCAL PLAN POLICIES THAT IMPLEMENT GOAL 1 IN REACHING ITS CURRENT DECISION

Goal 1 requires local jurisdictions to adopt a clearly defined Citizen Involvement Program (CIP) to ensure that a cross-section of affected citizens is involved in all phases of the planning process.

McMinnville implements these requirements through Chapter X of its Comprehensive Plan. (attached)

Policies 190.00 and 191.00 of the plan require the City to involve its Citizen's Advisory Committee in major plan amendments, map amendments, changes in the urban growth boundary, and in periodic review. These policies implement statewide planning Goal 1. Under Policy 190.00 the C.A.C, "shall hold public forums on major comprehensive plan text and map amendments and changes in the urban growth boundary..."

While the city did involve the C.A.C in the 2003 process that led to adoption of the original *MGMUP*, the committee has been completely bypassed in the development and adoption of these amendments.

The comprehensive plan amendments adopted in the current decision are "major

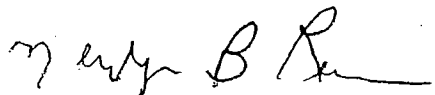
revisions."¹³⁷ The Urban Growth Boundary amendments adopted in the current decision include areas not previously considered or proposed for inclusion.¹³⁸


As our local testimony noted, we believe the City's failure to involve the C.A.C. in its review of these new proposals violates both Goal 1 and the City's own acknowledged plan.

Remedy:

The Department should remand the MGMUP with instructions to comply with comprehensive plan policies 190.00 and 191.00 and with its acknowledged Citizen Involvement Program.

Sincerely,


Marilyn Reeves
Friends of Yamhill County


Sid Friedman
1000 Friends of Oregon


Ilisa Perse

Attachments (Excerpts from local record):

1. Testimony of 1000 Friends of Oregon, dated January 11, 2005 (with attachments) submitted with objections filed on February 3, 2006
2. Testimony of 1000 Friends of Oregon, dated December 6, 2005 (with attachments) submitted with objections filed on February 3, 2006
3. Testimony of Mark Davis, dated May 20, 2005 (with attachments) submitted with objections filed on February 3, 2006
4. Excerpt from May 24, 2005 staff recommendation submitted with objections filed on February 3, 2006
5. Excerpt (p.5) from City of McMinnville staff memorandum, October 14 2005
6. Chapter X of McMinnville Comprehensive Plan

Cc: (without attachments)
City of McMinnville
Yamhill County

¹³⁷ See Goal II

¹³⁸ West Hills South

Oregon Department of Agriculture
Mark Davis



WEAPONS TRAINING FACILITY

☐ Background

In their objection to the LCDC, 1000 Friends of Oregon argued that the City should have added lands east of the airport in that they contain soils that are of lesser quality than other lands that were proposed for addition to the urban growth boundary. In the course of responding to this argument during the LCDC's April 22, 2004 hearing, City staff stated that this particular area was not considered due to its proximity to the municipal airport and weapons training facility. Staff added that the City did not believe it appropriate to introduce residential development into an area in which aircraft were operating and where evening and daytime assault and weapons training was occurring. This observation paralleled the statements provided in the Findings document (p. 52).¹

Subsequent to this hearing, in a letter dated May 12, 2004, 1000 Friends of Oregon stated that they "do not concede the accuracy" of the City's assertion regarding the weapons training facility, and that they did not have opportunity during the local hearing process to submit rebuttal evidence. During the LCDC's September 10, 2004, hearing on the MGMUP, 1000 Friends was prepared to submit into the record a letter from a property owner in the vicinity of the airport that stated that they were unaware of the existence of a weapons training facility. Staff does not believe that this letter was presented to the LCDC, however.

For the record, the weapons training facility has been in existence near the west end of Runway 4-22 since 1995. According to Lieutenant Rob Edgell, McMinnville Police Department, the facility is used for training of law enforcement personnel from government agencies throughout the northern Willamette Valley area, including several City agencies, the Oregon State Police, and the Federal Corrections Institute. Training within this property occurs at all hours of the day and night and includes the use of firearms, gas, and canines. Officer Edgell added that with the closing of the Tri-County Valley Gun Club (where such training use to occur) due to the encroachment of housing and noise, this is currently the only such facility in the valley.

☐ Staff Recommendation

This issue is presented to afford 1000 Friends an opportunity to rebut the accuracy of the above information, and for the City to add to the public record regarding its decision to not propose residential development in the area east of the McMinnville Municipal Airport. Staff notes that DLCD staff agreed with the City's position and is not recommending to its Commission that this land be added to the UGB.

¹ "Also, lands east of the airport were not given consideration due to their location adjacent to the airport and weapons training facility and their land use incompatibilities with urban residential development."



CHAPTER X CITIZEN INVOLVEMENT AND PLAN AMENDMENT

GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMinnville.

GOAL X 2: TO PERIODICALLY REVIEW AND AMEND THE McMinnville COMPREHENSIVE PLAN TO REFLECT CHANGES IN COMMUNITY CIRCUMSTANCES, IN CITIZEN DESIRES, AND IN THE STATEWIDE GOALS.

Policies:

- 188.00 *The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.*
- 189.00 *The City of McMinnville shall establish procedure for amending the Comprehensive Plan, Volumes I and II, and the implementation ordinances and measures in Volume III, which allow for citizen review and comment.*
- 190.00 *The City of McMinnville shall continue to engage citizens in community advisory positions for input on the major elements of the comprehensive plan. An ongoing Citizens' Advisory Committee, made up of representatives of all geographical areas of the City, shall hold public forums on major comprehensive plan text and map amendments and changes in the urban growth boundary and/or urban growth management agreement text.*
- 191.00 *The Citizens' Advisory Committee shall, in addition to reviewing the aforementioned proposals, undertake a major review of the City's comprehensive plan, as required by the LCDC, to insure compliance with the statewide goals, to insure the proper functioning of the plan and all implementation measures, and to incorporate into the plan changes in citizenry views or community circumstances which are deemed necessary and proper. (as amended Ord. 4536, April 27, 1993)*
- 192.00 *The Citizens' Advisory Committee shall have the power to initiate requests for amendments to the comprehensive plan text, maps, or implementation ordinances through appropriate procedures and channels.*

VOLUME II Goals and Policies

Item No.	3d
Page	197





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February 3, 2006

Lane Shetterly
Geoff Crook
Department of Land Conservation and Development
635 Capitol Street, NE
Suite 150
Salem, Or 97301

DEPT OF

FEB 03 2006

LAND CONSERVATION
AND DEVELOPMENT

Subject: Objection to City of McMinnville submittal

Dear Mr. Shetterly and Mr. Crook:

On January 13, 2006, the City of McMinnville mailed a "Notice of Adoption; final decision regarding periodic review work task." On January 27, 2006 the City mailed a second "Notice of Adoption; final decision regarding periodic review work task." Both notices concern amendments adopted in two separate ordinances by the McMinnville City Council at a joint public hearing held on January 11, 2006. Both ordinances amended the October 2003 McMinnville Growth Management and Urbanization Plan (*MGMUP*), the Findings document for the *MGMUP*, and related Comprehensive Plan Policies, including:

" 1) Amendment of certain text, tables and figures within the above-noted documents as necessary to support prior local decisions relative to the *MGMUP*; and,

2) Revision of plan policies... necessary to implement the *MGMUP*."

The second ordinance also amended the urban growth boundary and the comprehensive plan map.

According to identical language in both notices:

"This adoption completes elements of the City's periodic review work task related to the proposed expansion of its urban growth boundary, and provides the findings required to substantiate an exception to Statewide Planning Goals 2 (Land Use) and Goal 14 (Urbanization)."

Both notices state that the city's actions "respond to the LCDC remand order," "support amendment of the city's UGB by more than 50 acres," and (first notice) completion of elements of periodic review work task no. 1, or (second notice) "complete remaining elements of periodic review work task 1."

The deadline for filing objections listed in the first notice is February 3, 2006. The deadline for filing objections listed in the second notice is February 17, 2006. DLCD staff had verbally assured me that one comprehensive set of objections could be filed for which the deadline would be February 17th. Four days prior to the February 3rd deadline they withdrew that assurance. It makes no sense to file two separate sets of objections on the same Urban Growth Management Plan and Findings document. Clearly the second notice and deadline supercedes the first.

It would be nearly impossible to file two distinct sets of objections on the city's submittal, since the various elements of the *MGMUP* are so closely intertwined.

In addition, the city chose not to respond to various issues remanded by LCDC without a requirement to make any specific changes. Because the city did not address several of these areas, it is not possible to determine which set of objections should renew them. In fact, it is not apparent that either portion of the city's submittal included these other remanded parts of the plan, nor is it apparent that the city or county has readopted them, either with or without changes, although it was apparently their intent to do so.

DLCD staff has informed me orally that they consider the city's package of amendments to be one submittal, since they complete the same work task(s).

Nevertheless, in an exercise of caution we are submitting the following objections to the first portion of the city's submittal. Because they address a single document, they necessarily also address some of the areas included within the second portion of the city's submittal. We will revise and incorporate them into a comprehensive set of objections prior to the February 17th deadline.

1000 Friends of Oregon, Friends of Yamhill County, and Ilsa Perse submitted written and/or oral testimony at the public hearing on these amendments and have standing to file objections. As explained below, we have several objections to the city's submittal.

The submittal comes before DLCD pursuant to LCDC Partial Approval and Remand Order 001645, which remanded all portions of the city's 2003 submittal that were not explicitly approved.

To resolve our objections, the Department and/or Commission should not acknowledge the submittal, but rather return it to the City with instructions to develop a proposal that is completely consistent with the relevant statutes, goals, and administrative rules.

OBJECTION #1: THE CITY'S ZONING AND REGULATIONS FAIL TO IMPLEMENT ZONE CHANGES THAT FORM A BASIS FOR THE PLAN.

Statewide Planning Goal 2, Part I and sensible policy both dictate that the City's regulations and zoning implement the plan.¹ In some cases, this implementation is also needed to comply with Goal 14 directives to use urban land efficiently and Goal 10 directives regarding needed housing.

A. Rezoning R-1 Land to R-2

The text of the *MGMUP* restricts R-1 zoning to slope-constrained land.² The R-1 zone currently has a minimum lot size of 9,000 sq. ft. and covers approximately 435 acres.³ The *MGMUP* is based upon rezoning 204 acres of R-1 zoned land to R-2:

"The proposed changes would change the R-1 zoning to R-2 on 204 acres of land... this measure will decrease residential land need by some 38 acres."⁴

The plan amendments and implementing regulations adopted by the city as part of this decision do not rezone a single acre from R-1 to R-2, as called for in its adopted plan, and the City continues to have large vacant areas zoned R-1 that are not slope-constrained. Thus, the city's submittal violates Goal 2, Part I and Goal 14, Factor 4.

B. Rezoning R-1 land to R3, R-4, and R-5.

The *MGMUP* is based upon rezoning R-1 zoned land in Grandhaven and northwest McMinnville to medium and high-density residential development. It states:

"Some lands presently zoned for low-density development and zoned R-1 are proposed to be rezoned to medium and high-density residential development in order to implement the Neighborhood Activity Center concept. Specifically, these are vacant buildable lands in the Grandhaven area and in northwest McMinnville."⁵

The plan amendments and implementing regulations adopted by the city as part of this decision do not rezone a single acre of these vacant buildable lands from R-1 to R-3, R-4 and R-5, as called for in its adopted plan. Thus, the city's submittal violates Goal 2, Part I and Goal 14, Factor 4.

¹ Statewide Planning Goal 2, Part I provides, in part: "The plans shall be the basis for specific implementation measures. These measures shall be consistent with and adequate to carry out the plans."

² *MGMUP*, p. 5-19

³ *MGMUP*, p. 5-19

⁴ *MGMUP*, p. 5-19

⁵ *MGMUP*, p. 7-24

C. Transit Corridors

The text of the *MGMUP* and the city's findings put forth higher-density transit corridors as a key component of the plan. We support the adopted amendments which increase the width of the residential density enhancement corridor from 1,000 feet to 1/2 mile in width. The text of the *MGMUP* and the city's findings put forth higher-density transit corridors as a key component of the plan.

Unfortunately, while the adopted decision and plan identifies remaining parcels where rezoning to higher densities would allow more transit-supportive development, the amendments and implementing regulations adopted by the city do not rezone these parcels to higher densities, as called for in its adopted plan.⁶ Thus, the city's submittal violates Goal 2, Part I and Goal 14, Factor 4. As noted in the local staff report, as these parcels continue to be developed, opportunities for transit-supportive development are lost.

D. Multi-family zone (R-5)

The city's revised housing needs analysis determined a need for a new high-density multi-family zone to accommodate 18% of all needed housing, based in part on an assessment of income levels, housing affordability and efficient land use.⁷

Unfortunately, while the adopted decision creates a new R-5 zone within the city's zoning code, the city's decision does not actually apply the zone anywhere to even a single acre of land, even though the highest contemplated densities are within the existing city limits.⁸ Thus, the city's submittal violates Goal 2, Part I, Goal 10 and Goal 14, Factor 4.

Remedy:

The Department should remand the *MGMUP* with instructions to rezone^w land from R-1 to R-2; from R-1 to R-3, R-4, and R-5; those parcels identified in transit corridors as suitable for medium- and high-density housing; and to R-5 in order to implement the adopted plan.

⁶ *MGMUP*, p. 5-24 and Ordinance No. 4840, p. 3,

⁷ *MGMUP*, p. B-9

⁸ *MGMUP*, p. 7-25

OBJECTION #2: THE DEFINITIONS OF LOW-, MEDIUM-, AND HIGH-DENSITY RESIDENTIAL DEVELOPMENT WITHIN THE MGMUP AND ITS IMPLEMENTING ORDINANCES ARE INTERNALLY INCONSISTENT, INCONSISTENT WITH REGARD TO MINIMUM LOT SIZES AND THE TYPES OF RESIDENTIAL PRODUCTS FOUND IN THE CITY, AND INCONSISTENT WITH THE CITY'S HOUSING NEEDS ANALYSIS.

The MGMUP adopted in 2003 included Policy 71.09, which stated:

~~"Medium-Density Residential (R3 and R-4)- The majority of residential lands are planned to develop at medium density range (4-8 dwelling units per net acre.) Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses."~~

In hearings before the City Council in May of this year city staff recommended and received City Council direction to amend the policy to read:

"Medium-Density Residential (R3 and R-4)- The majority of residential lands are planned to develop at medium density range, consistent with the findings of its housing needs analysis (4-8 dwelling units per net acre). Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses."⁹ (emphasis added)

The city's adopted decision amends the policy to read:

"Medium-Density Residential (R3 and R-4)- Medium density residential development should be limited to the following:"

The City also amended plan policy 71.11. The version adopted in 2003 read:

"High-Density Residential (R-5)- High density residential contains housing at densities of anywhere from 8 to 30 units per acre, depending on where the high-density dwellings are located (the highest densities being in the downtown commercial core). Typical uses include townhouses, condominiums, and apartments."

⁹ See attached excerpt from May 24 staff recommendation

The city's adopted decision amends the policy to read:

"High-Density Residential (R-5)- High density residential housing includes townhouses, condominiums, and apartments, with the highest densities being in the downtown commercial core."

The pre-amendment definition of medium and high-density residential are still included verbatim elsewhere in the text of the *MGMUP*.¹⁰

There are several problems with these amendments:

A. Policy 71.09 as adopted in 2003 *MGMUP* stated, "The majority of residential lands in McMinnville are planned to develop at medium density range." Our previous testimony and objections pointed out that the actual zoning regulations failed to implement this policy, since the vast majority of residential lands in McMinnville are actually planned and zoned for low-density development in the R-1 and R-2 zones.

Instead of amending the regulations to implement the plan, the city has gutted the policy. The findings do not explain how the City can drop the policy and still use residential land efficiently as required by Goal 14, Factor 4, or meet the housing needs identified in its housing needs analysis as required by Goal 10.

Moreover, while the city has gutted the plan policy, the text of the *MGMUP* itself continues to assert that:

"The majority of residential lands are planned to develop at medium density range (4-8 dwelling units per net acre.) Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses."¹¹

The rest of the plan and the city's zoning fail to implement this text.

The majority of residential lands in McMinnville are actually planned to develop as R-1 and R-2, the lowest density residential zones in the city. According to Table 8 of the *MGMUP*, (p. B-10), the city plans for 1,053 acres of housing development in McMinnville between 2003 and 2023. Of these 1,053 acres, 669 acres- about 64%- are in the R-1 and R-2 zones. Only 313 acres- less than 30%- are in the city's medium density zones (R-3 and R-4).

For these reasons, the city's submittal violates Goal 2, Part 1; and Goal 14, Factor 4. In addition, the city has not explained why these violations do not also lead to a violation of Goal 10.

¹⁰ *MGMUP*, pp. 7-24 and 7-25

¹¹ *MGMUP*, p. 7-24

Remedy:

The Department should remand the *MGMUP* with instructions to plan for a majority of residential lands to develop at medium density range, consistent with the text of the *MGMUP*. Since this will result in a considerably reduced need for residential land the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

B. Both the text and policies of 2003 *MGMUP* and the text of the current amended version of the *MGMUP* define low density residential as < 4 dwelling units/net acre, medium density as 4-8 dwelling units/net acre and high density residential as anything > than 8 dwelling units/net acre. DLCD had recommended that LCDC remand the *MGMUP* with instructions to:

“Revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the city.”

The submitted amendments eliminate the numerical ranges for medium and high-density housing from plan policies 71.09 and 71.11 but do not otherwise revise the density and housing products considered to be medium and high density as defined in the text of the plan nor do they revise the density used in formulating the plan and needed residential acreage. This does not solve the underlying inconsistencies identified by DLCD.

The current decision also amends the policy to delete the uses included in medium density development: small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses.

Merely eliminating the reference to density in the plan policy does not change planned density within the R-3 and R-4 zones or the housing products allowed in the zones. The R-3 zone still has a minimum lot size of 6,000 square feet. The R-4 zone still has a minimum lot size of 5,000 square feet. As noted in DLCD’s 2004 “Response to Exceptions”:

“The issue, then, is whether lots ranging from 8,400 to 4,200 square feet are consistent with the medium-density housing products defined in Policy 71.09 (small lot single-family detached, single-family attached, duplexes, triplexes, and townhouses), and whether housing products typically located on lots that are up to but less than 4,200 square feet are consistent with high-density housing products as those are defined in Policy 71.11 (townhouses, condominiums, and apartments).”

As DLCD found in its "Response to Objections":

"A small lot in this vicinity can be considered to range from 4,500 to 6,000 square feet, which equates to approximately eight dwelling units per net acre."

"Similarly, townhouses are commonly provided on lots ranging from 2,000 to 3,000 square feet. This equates to densities ranging from 14 to 22 dwelling units per net acre. Therefore, while the city's definition of medium-density development is stated to range from four to eight dwelling units per acre, the characteristic housing types listed are more commonly found to range from seven to 20 units per net acre. The plan is internally inconsistent."

For these reasons, the city's submittal violates Goal 2, Part 1; and Goal 14, Factor 4. In addition, the city has not explained why these violations do not also lead to a violation of Goal 10.

Remedy:

Consistent with its previous recommendation to LCDC, the Department should remand the *MGMUP* with instructions to revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the zones. Since this will likely result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

OBJECTION #3: THE CITY HAS NOT JUSTIFIED THE AMOUNT OF BUILDABLE LAND INCLUDED IN THE UGB EXPANSION FOR PARKS, NOR ADEQUATELY CONSIDERED THE IMPACT OF SHARED FACILITIES ON NEEDED PARK ACREAGE

A. Amount of buildable land included in the UGB expansion for parks

About 30% of all gross buildable land included in the proposed UGB expansion is for community and neighborhood parks. Throughout the local process, the city has included all community and neighborhood parkland in the category of buildable residential acreage despite a past history of locating these park types partially in floodplain.

In this decision, the city adopts a new plan policy (Policy 163.05) to require that future community and neighborhood parks be located above the boundary of the 100-year floodplain. The City has not adopted any land use measures to protect this proposed acreage for eventual park use, nor has the City proposed any funding mechanism to

purchase this amount of buildable acres of parkland over the next 17 years. It is therefore clear that a large portion of the UGB expansion purportedly for parkland will instead be converted to residential uses.

In fact, since adoption of the parks master plan *six* years ago, the City has acquired only about 20 acres of buildable land for parks, at a cost of \$73,000 per acre, funded by a 20-year bond measure.¹² The City would need to acquire this much buildable land *every* year through the planning period to acquire the remaining acres of the UGB expansion that is purportedly for parks. The City has not proposed another parks bond measure before the current one is retired, nor has the City proposed assessing System Development Charges that are anywhere near adequate to cover the cost of acquisition, let alone the additional cost of park development.

~~Goal 2 requires consistency among the city's various planning documents. The financing section of the Parks Master Plan includes no plan to finance the acquisition of 30% of the buildable land added to the UGB.~~

Goal 2 requires that plans have an adequate factual basis. There is not an adequate factual basis to conclude that the City can acquire 30% of the proposed buildable acreage in the UGB expansion for use as community and neighborhood parks.

Goal 2 requires internal consistency within the city's plan. Other plan policies and implementing regulations contained within the *MGMUP* explicitly call for locating some portion of community and neighborhood parks on unbuildable land, including floodplain land and wetlands. New plan policy 163.05 and the allocation of 100% of neighborhood and community parks to buildable land are inconsistent with these other plan policies and implementing regulations:

"A community park should... incorporate identified wetland corridors"¹³

"A neighborhood park should be located adjacent to the South Yamhill River."¹⁴

All areas adjacent to the South Yamhill River are within the floodplain.¹⁵

"Consistent with the Parks, Recreation and Open Space Master Plan a neighborhood park should be located within the central portion of the

¹² See attached newspaper article, dated September 4, 2001. In addition to the approximately 15 acres of buildable land in Discovery Meadows, the city has also acquired Thompson Park, approximately 3 acres in size.

¹³ Plan Policy 188.15, *MGMUP* p. D-21 and Neighborhood Activity Center Planned Development Ordinance, *MGMUP* p. E-12

¹⁴ Plan Policy 188.31, *MGMUP* p. D-23 and Neighborhood Activity Center Planned Development Ordinance, *MGMUP* p. E-13

¹⁵ See *MGMUP* p. 6-14

[SW] sub-area... The wetland areas should be incorporated into the park, as practical."¹⁶

Goal 14 requires UGB amendments to consider the orderly and economic provision of public facilities and services, the maximum efficiency of land uses within and on the fringe of the existing urban area, and the retention of agricultural land. Recent amendments to Goal 14 require Comprehensive Plans and implementing measures to manage the use and division of urbanizable land to maintain its potential for *planned* urban development. The city's decision violates these provisions of Goal 14 for the reasons stated above.

The city's decision also amends the findings document to state that no additional land has been allocated for linear parks and trails. A similar statement is included in the ~~MGMUP.¹⁷ This is not accurate. The city has included within its proposed UGB expansion 107 buildable acres and 55 unbuildable acres for Greenways/ Greenspaces/ Natural Areas in addition to the existing 102 acres of land in these park-types.¹⁸~~

As testimony in the local record indicates, trails and linear parks are found within the city's Greenways, Greenspaces, and Natural Areas. These include the linear Westvale Greenway and Airport Park, a Natural Area which is almost entirely devoted to trails.

Goal 2 requires that plans have an adequate factual basis. The city has allocated additional land for Greenways, Greenspaces, and Natural Areas. These park types include trails and linear parks. There is not an adequate factual basis to conclude that the city has not allocated additional land for linear parks and trails.

B. Shared Facilities

We concur with the comments of Mark Davis regarding the potential for school district and Linfield properties to meet some portion of park needs. Evidence in the record shows that in a similar periodic review process in Woodburn, the City of Woodburn is assuming that 50% of all school land would also serve to meet the anticipated need for neighborhood and community parks.

The evidence in the local record does not support the city's conclusion that no portion of the identified need can be met on shared facilities. Evidence in the local record supports the opposite conclusion:

The city found:

"The residents of McMinnville enjoy many of the athletic facilities available on McMinnville School District and Linfield College campus

¹⁶ Plan Policy 188.36, MGMUP p. D-24 and Neighborhood Activity Center Planned Development Ordinance, MGMUP p. E-14

¹⁷ MGMUP, p. B-24

¹⁸ MGMUP, p. B-26, Table 23

property. These include gymnasiums, track stadiums (for football) and field house (swimming, diving)."

Mark Davis submitted evidence that in addition to the above uses these also include fields for soccer, baseball, tennis, and informal recreation.

Undeveloped land in the proposed Northwest Neighborhood Activity Center includes a new high school site and a new elementary school site.¹⁹ Undeveloped land adjacent to the proposed Grandhaven Neighborhood Activity Center includes a new middle school site and an existing elementary school.²⁰ The school district recently acquired a site for another new school at the southern edge of the city.²¹ The City has an intergovernmental agreement with the school district to share facilities and a similar arrangement with Linfield.

Clearly, some, but not all, of the need for formal and informal recreation facilities associated with Community and Neighborhood Parks can be met on the new school sites planned within or adjacent to the areas of proposed new residential development.

This is confirmed by the testimony of City Manager Kent Taylor regarding shared park facilities. During the local hearing that led to adoption of the city's current submittal he stated:

"The last issue I'd touch on is the issue of partnering with the schools. And as I understand our history and as I understand our policy there is no, no intent to back off from future partnering with the school district. I think what the policy suggests is that as we've done for decades and decades, that we'll continue to do that, but even in the light of that, it's not going to meet all the differing needs, the differing types of open space and parks. I think that's the intent as I read it."²²

Remedy:

For these reasons, the Department should remand the *MGMUP* with instructions to revise its assumptions regarding needed parkland to reflect realistic assumptions for which there is an adequate factual basis; resolve internal inconsistencies; and reduce the planned need for buildable land for neighborhood and community parks to account for the potential for sharing park facilities with the School District and Linfield College. Since this will result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

¹⁹ *MGMUP* p. 7-9

²⁰ *MGMUP* pp. 7-11 to 7-12

²¹ News-Register article submitted to local record, "District acquires southeast school site" July 15, 2003

²² January 11, 2006 public hearing, cassette tape side 2 of 4. Hearing tapes available on request.

At a minimum, to ensure urbanizable land to maintain its potential for *planned* urban development, the Department should remand the *MGMUP* with instructions to adopt a plan policy requiring that 30% of the buildable acreage added to the UGB not be annexed for any use other than neighborhood and community parks.

OBJECTION 4: THE CITY HAS AMENDED THE PLAN IN A MANNER THAT REDUCES RESIDENTIAL LAND NEED BUT HAS FAILED TO ADOPT A CORRESPONDING REDUCTION IN THE SIZE OF THE UGB EXPANSION.

Goal 14 requires UGB amendments to be based upon demonstrated need. Similar requirements are found in ORS 197.296

The city's decision amends the *MGMUP* in several ways that reduce the amount of land required to meet the city's need for housing. The city's amendments enhance the "efficiency measures" defined in ORS 197.296(6) but the city failed to calculate their impact on residential land need and failed to adopt a corresponding reduction in the size of the UGB expansion. Therefore, the city's submittal violates Goal 14 and ORS 197.296.

Specifically:

A. The city amended the Transit Corridor Enhancement Policy, plan policy 71.01, plan policy 71.13(6), plan policy 90.00, and zoning ordinance section 17.21.010(C) to encourage, allow, and plan for higher density and multi-family housing within a ½ mile wide corridor (2,640 feet) rather than the previous 1,000 foot wide corridor.

The city had calculated the impact of the 1,000 foot wide corridor as reducing land need by 15.79 acres.²³ The city has increased the width of the corridor by 264 percent but has not made a corresponding reduction in land need.

B. The city amended plan policy 71.01, plan policy 71.13(7), policy plan 90.00, and zoning ordinance section 17.21.010(C) to encourage, plan for, and allow higher density and multi-family housing within a ¼ mile wide radius of designated activity centers and neighborhood and general shopping areas rather than the previous 1/8 mile radius.

The city also amended plan policies 188.10, 188.188, 188.26 and 188.34 to establish a minimum density of 7.5 dwelling units per net acre in neighborhood activity centers, where it previously had been the targeted average upon which the city based its land need calculations.

In 2003 the city had calculated the impact of increased density in just the Northwest and Grandhaven Activity Centers alone at 66.84 acres.²⁴ Now the city has doubled the radius

²³ *MGMUP*, p. 7-28, Table 16

²⁴ *MGMUP*, p. 7-28, Table 16

within all the neighborhood activity centers and from neighborhood and general commercial shopping areas within which it will plan for and allow higher-density and multi-family housing. Doubling the radius within which these uses planned for more than doubles the land area.

The city has also amended the plan to establish a minimum density of 7.5 dwelling units per net acre in neighborhood activity centers, where it previously had been the targeted average upon which the city based its land need calculations.

The amendments cited above plan for and allow higher density housing, including smaller lots, duplexes and multi-family housing in much broader areas of both Neighborhood Activity Centers and the city as a whole. They will therefore reduce the amount of residential land needed within the UGB.

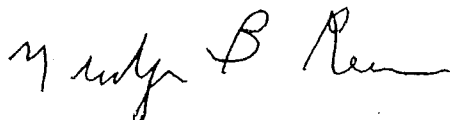
The City has not calculated the impact of these amendments on residential land need nor has it adopted a corresponding reduction in the size of the UGB expansion. Instead, the city continues to base its land needs on the prior more restrictive language in its plan and code and on an average density of 7.5 dwelling units per net acre in the Neighborhood Activity Centers.

For these reasons, the city's submittal violates Goal 14 and ORS 197.296.

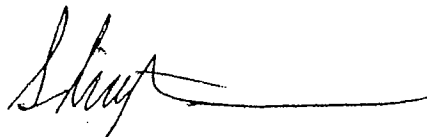
Remedy:

The Department should remand the *MGMUP* with instructions to recalculate residential land need based on the new larger areas in which the city intends to encourage, plan for and allow higher-density housing. Since this will result in a reduced land need the Department should further direct McMinnville to make a corresponding reduction in the size of its UGB expansion.

Sincerely,



Marilyn Reeves
Friends of Yamhill County



Sid Friedman
1000 Friends of Oregon



Ilsa Perse

Attachments (Excerpts from local record):

Testimony of 1000 Friends of Oregon, dated January 11, 2005 (with attachments)
Testimony of 1000 Friends of Oregon, dated December 6, 2005 (with attachments)
Testimony of Mark Davis, dated May 20, 2005 (with attachments)
Excerpt from May 24, 2005 staff recommendation

Cc: (without attachments)

City of McMinnville
Yamhill County
Oregon Department of Agriculture
Mark Davis



534 SW Third Avenue, Suite 300 • Portland, OR 97204 • (503) 497-1000 • fax (503) 223-0073 • www.friends.org
Southern Oregon Office • P.O. Box 2442 • Grants Pass, OR 97528 • (541) 474-1155 phone/fax
Willamette Valley Office • 189 Liberty St. N.E., Ste 307A • Salem, OR 97301 • (503) 371-7261 • fax (503) 371-7596
Lane County Office • 1192 Lawrence • Eugene, OR 97401 • (541) 431-7059 • fax (541) 431-7078
Central Oregon Office • P.O. Box 1380 • Bend, OR 97709 • (541) 382-7557 • fax (541) 317-9129

January 11, 2006

McMinnville City Council
Yamhill County Board of Commissioners
230 E. 2nd St.
McMinnville, OR 97128

Dear Council Members and Commissioners:

Thank you for providing us with notice of tonight's hearing on McMinnville's Urban Growth Boundary and related growth-management issues. We have reviewed the January 3, 2006 staff memorandum and accompanying draft ordinances amending the McMinnville Growth Management and Urbanization Plan (MGMUP) and their attachments.

We recognize that the current proposal in some ways improves upon the 2003 proposal.

The decision to remove from the proposed expansion approximately 350 acres of farmland in floodplain for which no need could be demonstrated reduces the amount of farmland proposed for inclusion in the UGB by some 30%. The current proposal also removes from the proposed expansion the prime soils directly north of the new high school site. These recommendations reduce the impacts of the proposal on the County's agricultural base and significantly improve compliance with state policy and law regarding conservation of resource land

The decision to allow smaller lots, duplexes and higher density housing in broader areas than previously proposed also represents a significant improvement over previous proposals.

Despite these improvements, we continue to believe the large size of the proposed expansion is not justified, the location of the proposed expansion still includes too much prime farmland instead of available exception areas and areas of poorer soils, and the proposed regulations do not adequately implement the plan.

I. Size of Proposed Expansion

We have previously detailed in extensive testimony the reasons the large size of the proposed UGB expansion is not justified. We will not repeat all those reasons in this letter, but will highlight two of them.

A. Parkland

About 30% of all gross buildable land included in the proposed UGB expansion is for community and neighborhood parks.

The City has included this parkland in the category of buildable residential acreage, despite a past history of locating these park types at least partially in floodplain. The City has not adopted any land use measures to protect this proposed acreage for eventual park use, nor has the City proposed any funding mechanism to purchase this amount of buildable acres of parkland over the next 17 years. It is therefore clear that a large portion of the UGB expansion purportedly for parkland will instead be converted to residential uses.

In fact, since adoption of the parks master plan *six* years ago, the City has acquired only about 15 acres of buildable land for parks, at a cost of \$73,000 per acre, funded by a 20-year bond measure.¹ The City would need to acquire this much buildable land *every* year through the planning period to acquire the remaining acres of the UGB expansion that is purportedly for parks. The City has not proposed another parks bond measure before the current one is retired, nor has the City proposed assessing System Development Charges that are anywhere near adequate to cover the cost of acquisition.

Goal 2 requires consistency among the city's various planning documents. The financing section of the Parks Master Plan includes no plan to finance the acquisition of 30% of the buildable land added to the UGB.

Goal 14 requires UGB amendments to consider the orderly and economic provision of public facilities and services, the maximum efficiency of land uses within and on the fringe of the existing urban area, and the retention of agricultural land. Recent amendments to Goal 14 require Comprehensive Plans and implementing measures to manage the use and division of urbanizable land to maintain its potential for *planned* urban development.

At a minimum, the City should adopt a plan policy requiring that 30% of the acreage added to the UGB not be annexed for any use other than parks.

B. Effect of other Proposed Amendments

The draft ordinances amend the 2003 MGMUP to increase the densities permitted in several areas of the City. These amendments allow smaller lots, duplexes and higher density housing in much broader areas of both transit corridors and Neighborhood Activity Centers. They will therefore reduce the amount of residential land needed within the UGB. Table 16 of the MGMUP details the "efficiency" savings for the transit

¹ See attached newspaper article, dated September 4, 2001.

corridors and NAC's based on the prior more restrictive language. These savings should be recalculated to reflect the new policies.

II. Location of Boundary Expansion

The location of the proposed Urban Growth Boundary expansion is governed by the priorities set forth in ORS 197.298. Lower priority lands can only be included in the UGB if identified land needs cannot be reasonably accommodated on higher priority lands.

Even if one accepts the City's conclusion that approximately 891 acres of additional buildable land must be added to the UGB, the City should be expanding first into exception areas and into areas of poorer soils rather than onto prime farmland.

We have previously detailed why the exclusion of several higher-priority areas is not justified. In response to the draft ordinance and findings we offer the following additional testimony and evidence regarding the following specific higher-priority areas.

A. West Hills

The area referred to as the "West Hills" in draft amendments to the MGMUP contain two distinct areas. A crescent-shaped area of steep slopes exceeding 25% and lands west of and beyond that crescent defines the upper West Hills area, which is generally more distant from the UGB. We agree with the conclusion that lands within and beyond this crescent cannot reasonably accommodate identified land needs.

The lower West Hills area is more gently sloped and is adjacent to the existing UGB. It contains approximately 200 acres with slopes ranging upward from 7%.² The gentlest slopes are generally adjacent to the existing UGB. Two small, isolated areas exceed 25% in slope. This area can clearly accommodate identified land needs. The reasons set forth for its exclusion in the draft amendments to the MGMUP findings do not stand up to scrutiny.

The purported justification for the exclusion of this area rests primarily on two factors: a) the area is generally above the 275- foot level that marks the service area under the existing municipal water system; and b) the findings contend that the area could only accommodate, "low-density single family residential" development."³

Water

It is often necessary to upgrade infrastructure to serve a UGB expansion area. In this case, those upgrades are already needed and *planned*. Land within the *existing* UGB,

² Draft amendments to findings, p. 11

³ Draft amendments to findings, p. 12

including land within the city limits, ranges up to and above 415' in elevation. The municipal utility Water Master Plan includes a system upgrade to serve areas up to 415' in elevation. The location of proposed new reservoirs is in the lower "West Hills" expansion area. This project is scheduled to have begun in 1999. (see attached excerpts from McMinnville Water & Light Water Master Plan.) Because of the legal standards that govern the location of municipal utility facilities in resource zones, inclusion of the lower West Hills area will facilitate their construction.

The 415' elevation "occurs at roughly the mid-point of the Class III soils in the West Hills area."⁴ Because upgrades to the water system to serve areas up to 415' in elevation are already needed and planned, the provision of water cannot be a legitimate justification for excluding lands in the lower West Hills that are below that elevation. In addition, the findings do not explain why it is unreasonable to either revise the planned system improvements to locate the new reservoirs higher so as to serve additional higher-priority lands above 415 feet, or to plan a second upgrade later in the planning period so as to serve additional lands.

Slopes and Density

Because the city's contentions regarding water service to the lower West Hills expansion area do not hold water, we are left with the City's contentions regarding slopes and density as a purported justification for their exclusion.

The draft findings contend this area could not reasonably accommodate anything other than low-density single family residential development, that the city needs medium and high density residential development, not low density therefore this area of poorer soils cannot reasonably accommodate identified land needs. The findings also imply the cost of medium and high density housing in this area would be inconsistent with the cost of identified housing needs.

These findings do not stand up to scrutiny.

First, almost 2/3 of the additional land projected for housing beyond the 2003 UGB is for low-density single-family housing. The MGMUP found a need for an additional 341 buildable acres beyond the 2003 UGB for low-density single-family housing in the R-1 and R-2 zones at densities of 3.5 and 4.3 units per gross acre.⁵ There is no reason some of this identified land need cannot be met in the lower West Hills area.

Second, the conclusion that the slopes in the lower West Hills cannot accommodate medium or high-density housing is not supported by evidence in the record and is simply wrong. The MGMUP found a need for about 79 buildable acres beyond the 2003 UGB for medium-density housing in the R-3 zone at densities of 5.4 units per acre, a need for about 80 buildable acres beyond the 2003 UGB for medium density housing in the R-4

⁴ Draft amendments to findings, p. 12

⁵ MGMUP, Table 11, p. B-15. This number must adjusted slightly downward to account for efficiency measures identified in Table 16 of the MGMUP (p. 7-28.)

zone at densities of 8.8 units per acre, and a need for about 37 buildable acres beyond the present UGB for high-density housing in the R-5 zone at densities of 15.0 units per acre.⁶

There is nothing inherent in slopes greater than 7% or even 20% that precludes development of housing at 5.4 units per acre, 8.8 units per acre, or even more than 15 units per acre.

Astoria's higher density residential development is on its steepest slopes. Astoria's R-3 and R-2 zone are primarily located on slopes steeper than 10%. The R-3 zone allows up to 26 units per acre, far greater density than permitted in any of McMinnville's existing or proposed zones. Astoria's R-2 zone allows up to 16 units per net acre.⁷

We have also attached photographic examples of multi-family housing development on slopes ranging from 6% to over 20% percent. They dispel any notion that the lower West Hills cannot accommodate medium and/or high-density housing.

Third, even if the findings were correct in concluding that the lower West Hills could only accommodate low-density housing, the City proposes to allocate low-density housing to every expansion area proposed for inclusion. The City could upzone low-density land within the existing UGB or reallocate land in other expansion areas to medium and/or high density and replace that low density housing within this higher-priority area.

Fourth, the implication that housing costs in the lower West Hills would be inconsistent with the cost of identified housing needs is not based on evidence in the record. The City's housing needs analysis made no attempt to correlate the City has not correlated future income levels with needed housing nor did the analysis determine what price levels were needed for the various needed housing types.

Transportation

The draft findings conclude that extension of roads into the area, "would require expensive design and construction measures," as evidence that the area cannot reasonably accommodate medium and high-density housing.⁸ There is no evidence in the record to support this finding nor is "expensive" defined. The draft findings do not attempt to compare the cost of providing urban services to this area relative to other areas. The draft findings also contend that distance from existing or planned non-residential services render medium and high density housing in this area infeasible.⁹ At its closest, the area is with ½ mile of the new high school site. Moreover, the findings do not explain why the City could not plan for non-residential services closer to this area or why distance from

⁶ MGMUP, Table 11, p. B-15. This number must adjusted slightly downward to account for efficiency measures identified in Table 16 of the MGMUP (p. 7-28.)

⁷ see attached e-mail from Astoria's Planning Director, attached topographical map, and attached excerpts from Astoria's zoning code.

⁸ Draft amendments to findings, p. 12

⁹ Draft amendments to findings, p. 13

services render 5,000 or 6,000 sq. ft. lots (the minimum lot sizes in the R-4 zone and R-3 zones) infeasible.

For the reasons cited above, the lower West Hills can reasonably accommodate identified land needs for either low-density single-family housing, or for medium or high-density housing.

B. Area North of Fox Ridge Road

The City proposes to include tax lot 4418-700 in the UGB exclude all other areas of poorer soils north of Fox Ridge Road from the UGB expansion. In considering the area north of Fox Ridge Road, the draft findings only discuss tax lot 700 and tax lots 4513-100 and 200. Additional higher priority land is located immediately west of tax lot 100, extending west to include additional broad areas of predominantly Class III soils between the floodplain and the area of steep slopes to the south. This higher priority area extends westward into a large exception area. (see attached Yamhill County zoning maps).

The area includes several hundred acres of buildable land between the floodplain and the band of unbuildable slopes over 25%. It is up to 2000 feet wide and includes considerable amounts of land below the 275' elevation level that marks the service area under the existing municipal water system. It includes even more land below the 415' elevation level that marks the service area of the system's planned upgrade. (see various maps in record).

This area can clearly accommodate identified land needs. The reasons set forth for its exclusion in the draft amendments to the MGMUP findings do not stand up to scrutiny.

The findings conclude that Class III and IV soils only comprise "a small portion" of tax lots 100 and 200, predominantly in the steeper portions where grades exceed 25%.¹⁰ This conclusion is simply wrong. Soil maps in the record establish that both tax lots are comprised of predominantly Class III and IV soils even if one excludes the small areas of steep slopes.¹¹

The draft findings conclude that if TL 100 and 200 were included in the UGB, an island of farm parcels would be created, cutting off tax lots 4418-100 and 1100.¹² This would only occur if the portions of TL 100 in the Baker Creek floodplain were included in the UGB. There is no reason to include this portion of the tax lot (which is primarily Class I soils) and in fact, in a November 30 memorandum, staff recommended bringing the portion of the tax lot south of the floodplain, but not including the floodplain.

¹⁰ Draft amendments to findings, p. 9

¹¹ see attached "Composite Constraints and Soils Map" produced by City staff as a power point slide.

¹² Draft amendments to findings, p. 10

The draft findings also conclude that bringing in tax lot 200 and/or 300 would create a large UGB border with actively farmed land.¹³ The inclusion of the rest of the higher-priority area west of tax lot 100 would eliminate or minimize this conflict. The findings also do not explain why this renders their urbanization unreasonable, nor do they consider mitigation measures.

In considering compatibility with agricultural land, the findings cite abutment with farmland of approximately 1600 feet. The Southwest expansion area included within the proposed UGB directly abuts farmland along its southern edge for a similar distance. This area is comprised of prime Class II soils. The findings do not explain why urbanization of these prime soils does not pose unreasonable conflicts, while urbanization of these poorer soils would. We also note that the West Hills South area directly abuts farmland for over a mile, but the findings do not find this to be unreasonable.

The draft findings conclude that there would only be "perhaps a 200 foot wide buildable corridor" on tax lots 100 and 200 between the steep slopes to the south and the floodplain.¹⁴ This finding is in error. The buildable corridor between the floodplain and the unbuildable 25% slopes would be approximately 700' to 1400' wide.¹⁵

The draft findings conclude that since no street connection could be made to the north, tax lots 100 and 200 would have to be served by a dead-end street. The area could connect to Fox Ridge Road to the south. In fact, the City already owns one of the intervening parcels.

For the reasons cited above, the area north of Fox Ridge Road, including tax lots 200, 100 and land west of tax lot 100 can reasonably accommodate identified land needs.

C. Area North of Highway 18 by Evergreen Aviation Museum

There is an area of predominantly Class III soils between the Evergreen Aviation Museum and Olde Stone Village. This land is virtually surrounded by the existing UGB. Another area of Class III soils is adjacent other side of the Air Museum.

The draft findings lump these areas in with other lands north of Olde Stone Village and east of the airport and reaches several conclusions regarding all these lands based on the McMinnville Municipal Airport Master Plan and the traffic pattern associated with the downwind leg of Runway 4/22. These findings appear to be directed towards lands east of the airport and north of Olde Stone Village but because the evidence on which they are based is not in the record it is not possible to ascertain whether this is the case or to assess their accuracy.¹⁶

¹³ Draft amendments to findings, p. 10

¹⁴ Draft amendments to findings, p. 11

¹⁵ see attached "Composite Constraints and Soils Map" produced by City staff as a power point slide.

¹⁶ Draft amendments to findings, pp. 6-8

For example, the draft findings state, "[t]his land, if brought into the UGB would be actively farmed on three of its four sides." This finding is clearly inaccurate regarding the Class III land virtually surrounded by the existing UGB.

The findings also conclude that, [n]eeded low-density residential development can be accommodated within the existing McMinnville urban growth boundary and in exception areas recently added to the boundary (Fox Ridge Road, Redmond Hill Road, and Riverside South). This is inconsistent with MGMUP.

The MGMUP found a need for an additional 341 buildable acres beyond the 2003 UGB for low-density single-family housing in the R-1 and R-2 zones at densities of 3.5 and 4.3 units per gross acre.¹⁷ This additional need exceeds the amount of buildable land in the exception areas cited in the findings by approximately 125 acres.

In fact, the MGMUP allocates considerable amounts of low-density residential development to prime farmland proposed for inclusion in the boundary. The findings do not consider whether some of this identified need can be accommodated on this area of poorer soils by the Air Museum.

For these reasons, the City has not adequately justified the exclusion of the higher-priority land by the Air Museum.

II. Implementation

Statewide Planning Goal 2 and sensible policy both dictate that the City's regulations and zoning implement the plan. We have previously detailed several issues regarding internal consistency of the plan policies and implementing regulations. Some of those issues are addressed in the proposed ordinance, but others remain. Since these have been covered in previous testimony we will not repeat them all here, but will highlight the following.

A. Residential Rezoning

The MGMUP is based on specific that the City failed to adopt. These zoning amendments are needed to resolve inconsistencies between the plan and the City's regulations and zoning.

Rezoning R-1 Land to R-2

The text of the MGMUP proposes to restrict R-1 zoning to slope-constrained land and to rezone 204 acres of R-1 zoned land to R-2:

¹⁷ MGMUP, Table 11, p. B-15. This number must adjusted slightly downward to account for efficiency measures identified in Table 16 of the MGMUP (p. 7-28.)

"The proposed changes would change the R-1 zoning to R-2 on 204 acres of land... this measure will decrease residential land need by some 38 acres."¹⁸

The proposed regulations do not rezone a single acre from R-1 to R-2.

Transit Corridors

The text of the *MGMUP* and the City's findings put forth higher-density transit corridors as a key component of the plan. The local staff report and the draft ordinance state that staff has identified remaining parcels where rezoning would allow more transit-supportive development. The City should implement the plan as part of this process and upzone those properties it has identified.

This action would be consistent with the DLCD recommendation to LCDC to remand the *MGMUP* with instructions to:

"Rezone these parcels identified as suitable for medium-, and higher- density housing in order to implement the plan."

B. Amendments to Policy 71.09

The *MGMUP* adopted in 2003 included Policy 71.09, which stated:

"Medium-Density Residential (R3 and R-4)- The majority of residential lands are planned to develop at medium density range (4-8 dwelling units per net acre.) Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses."

In hearings in May of this year staff recommended and received Council direction to amend the policy to read:

"Medium-Density Residential (R3 and R-4)- The majority of residential lands are planned to develop at medium density range, consistent with the findings of its housing needs analysis (4-8 dwelling units per net acre). Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses."

The draft ordinance amends Policy 71.09 by deleting the units per acre definition as directed by the Council. It also amends the policy in a manner that was not discussed or considered by the Council and that is problematic.

¹⁸ *MGMUP*, p. 5-19

The MGMUP adopted in 2003 stated in Policy 71.09, "The majority of residential lands in McMinnville are planned to develop at medium density range." Our previous testimony and objections pointed out that the actual zoning regulations failed to implement this policy, since the vast majority of residential lands in McMinnville are actually planned and zoned for low-density development in the R-1 and R-2 zones.

Instead of amending the regulations to implement the plan, staff has inserted language in the draft ordinance that guts the policy. The findings do not explain how the City can drop the policy and still use residential land efficiently as required by Goal 14 or meet the housing needs identified in its housing needs analysis as required by Goal 10.

It is troubling to find that staff has inserted this amended language in the draft ordinance with no public discussion, no apparent direction from Council, and no explanation.

The draft ordinance also amends the policy to delete the uses included in medium density development: small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses. This additional amendment has also been inserted without any prior discussion.

Merely eliminating the reference to density in the plan policy does not change planned density within the R-3 and R-4 zones or the housing products allowed in the zones. The R-3 zone still has a minimum lot size of 6,000 square feet. The R-4 zone still has a minimum lot size of 5,000 square feet. As noted in DLCD's "Response to Exceptions":

"The issue, then, is whether lots ranging from 8,400 to 4,200 square feet are consistent with the medium-density housing products defined in Policy 71.09 (small lot single-family detached, single-family attached, duplexes, triplexes, and townhouses), and whether housing products typically located on lots that are up to but less than 4,200 square feet are consistent with high-density housing products as those are defined in Policy 71.11 (townhouses, condominiums, and apartments)."

As DLCD found in its "Response to Objections":

"A small lot in this vicinity can be considered to range from 4,500 to 6,000 square feet, which equates to approximately eight dwelling units per net acre."

"Similarly, townhouses are commonly provided on lots ranging from 2,000 to 3,000 square feet. This equates to densities ranging from 14 to 22 dwelling units per net acre. Therefore, while the city's definition of medium-density development is stated to range from four to eight dwelling units per acre, the characteristic housing types listed are more commonly found to range from seven to 20 units per net acre. The plan is internally inconsistent."

Consistent with DLCD's previous recommendation to LCDC, the City should revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the zones.

III. Characterization of LCDC Hearing

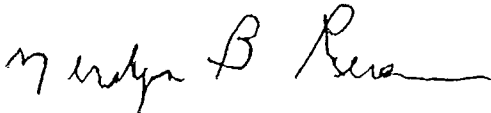
The draft ordinance amends the MGMUP to state the following:

"On September 10, 2004, the LCDC approved the City's rezoning of seven... parcels. This action was taken following DLCD's staff's amended recommendation to their Commission and after DLCD's consultation with staff from 1000 Friends of Oregon during a recess occurring at the September 10th hearing; City input was not requested and, when offered, was not welcomed by those parties during that consultation." (emphasis added)

The highlighted clause in the proposed amendment above is inaccurate, irrelevant, and is not based on evidence in the record. It therefore should be stricken. It is troubling to find that staff has inserted this amended language in the draft ordinance with no public discussion, no apparent direction from Council, and no explanation.

We hope these comments are helpful. Please include them in the official record of this proceeding and provide use with written notice of your decision in this matter.

Sincerely,



Marilyn Reeves
Friends of Yamhill County



Sid Friedman
1000 Friends of Oregon

Attachments:

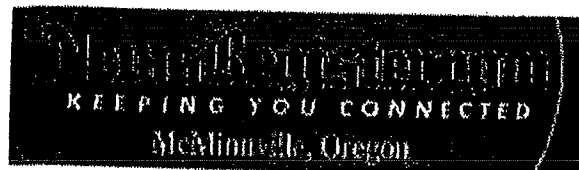
1. "New Park" article, News-Register, September 4, 2001
2. Excerpts from McMinnville Water & Light Master Plan, "Mac Water & Light" article, News-Register, February 15, 2001
3. E-mail from Astoria Planning Director, Excerpts from Astoria Zoning Code, Topographical Map
4. Composite Constraints and Soils Map
5. Yamhill County Zoning Maps

Cc: DLCD
Dep't of Agriculture



Attachment 1

"New Park" article



HEARING LO

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Tuesday, January 10, 2006 | 2:
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New park plans all wet

Published: September 4, 2001

By DAVID BATES Of the News-Register

McMinnville city officials are trying to put a positive spin on an embarrassing discovery not made until they started work aimed at turning a \$2.2 million, 21-acre westside tract into a park.

There's a three-acre federally protected wetland in the middle of it. And the property features about three more acres of wetland in patches around its north and east sides.

That's something city officials didn't know in 1999, when they agreed to pay \$73,000 an acre for the property - about \$15,000 over market, according to local real estate agents and property appraisers.

Most of the property still can be developed, but about half a dozen acres will be off limits. And that has already resulted in one major change from the original plan.

There had been talk about recouping some of the big purchase price by slicing off some land around the edges for housing. But when they learned about the wetlands problem, city officials quickly scrapped that idea.

The city is working with two consultants, including the Portland wetlands firm Terra Science Inc., on a solution that will pass muster with Oregon land use officials. One idea is turning the three-acre central wetland into a "nature" area, filling the other three acres and creating three new acres of wetland elsewhere.

That's a tricky proposition, though, as wetland science is still in its infancy and a growing body of evidence suggests wetland preservation and restoration efforts in the Northwest have mostly proven unsuccessful.

Just last month, the state of Washington released a study concluding the Pacific Northwest is still suffering steady loss of wetlands - those water-filtering bogs and marshes once regarded as nuisances - despite the federal protection afforded in recent years. One reason, the study concluded, is that while federal rules permit replacement of wetlands in

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a new location, humans still aren't very adept at replicating Mother Nature.

The McMinnville park is planned for a flat, grassy parcel between Cypress Lane and Goucher Street. It is adjacent to Columbus Elementary School.

In hindsight, it's hard to see how the wetland could have been missed.

Most of the land has been farmed, but there's a swath extending from the southern border toward the center that's never felt the bite of a plow. Shaped like a slightly bent finger, it quickly fills with water during the wet season and begins to overflow into a storm drain along the property's southern border.

"You can see where farmers didn't go with their tractors because it tends to be wet," Parks & Recreation Director Jay Pearson explained during a Friday walk-through. "It's a natural place to avoid."

The city's most recent aerial photograph, shot in the mid-1990s, clearly shows that part of the parcel is somehow different from the rest.

The smaller patches along the edge may be filled. In compensation, three acres of new wetland would have to be created, probably in Joe Dancer Park.

But city officials are operating on the assumption that the three-acre wetland in the middle of the property isn't going anywhere.

Pearson shifted uncomfortably when asked the inevitable question, "What did you know and when did you know it?" He said officials knew there was a slight depression in the middle of the property, but didn't realize until after the deal was done that the depression was a wetland.

"When we had it appraised, that didn't come up," Pearson said. "They found more than we expected, to tell you the truth," he said of the city's park designers.

But he said, "It's not necessarily a negative thing. It just adds a new feature to the park that we didn't expect."

Former City Councilor Dave Hughes, an appraiser by profession, was more blunt when contacted Friday at his new home in Hermiston.

"It's a loss," he said. "My understanding was that we could use whatever we wanted for the park."

The city bought the property for \$1.5 million in July 1999 from Charles and Margaret Walker and David and Joanne Kraemer. The two parcels

were annexed by McMinnville voters in May 1998.

Though he ultimately voted with the rest of the council in approving the deal, Hughes thought from the outset that the city was paying too much. And he was vocal about it.

He said the city's purchase price of \$73,000 an acre looks even worse now, as wetlands on otherwise buildable property have a value "pretty close" to zero. However, that perception is not universally shared by others in the real estate business.

Realtor Nicole Dell, a McMinnville planning commissioner, also criticized the price-tag at the time. But she said wetlands can actually increase the value of a property if they enhance environmental qualities.

That's the angle city officials are trying to emphasize as they mull options for the park's design. With Columbus Elementary School a few hundred feet away, there's talk about field trips to take advantage of the wetlands' educational values.

In two public meetings, area residents made it clear anyway that they didn't want to see part of the property converted to residential use. That gave the city council all the more reason to scrap plans for housing around the edges.

City Manager Kent Taylor echoed that view, suggesting future generations would not look favorably on the first city council of the 21st century if it built over a chunk of open space just to make a few bucks.

A consensus is also emerging that the west side park needs some topographic variety, probably with some landscaped berms. While there may be a ballfield or a basketball court, officials don't seem inclined to fill the park with sports facilities.

"You guys have a blank slate," Murase Associates consultant Daniel Jenkins told the council last week when the wetlands development came to light.

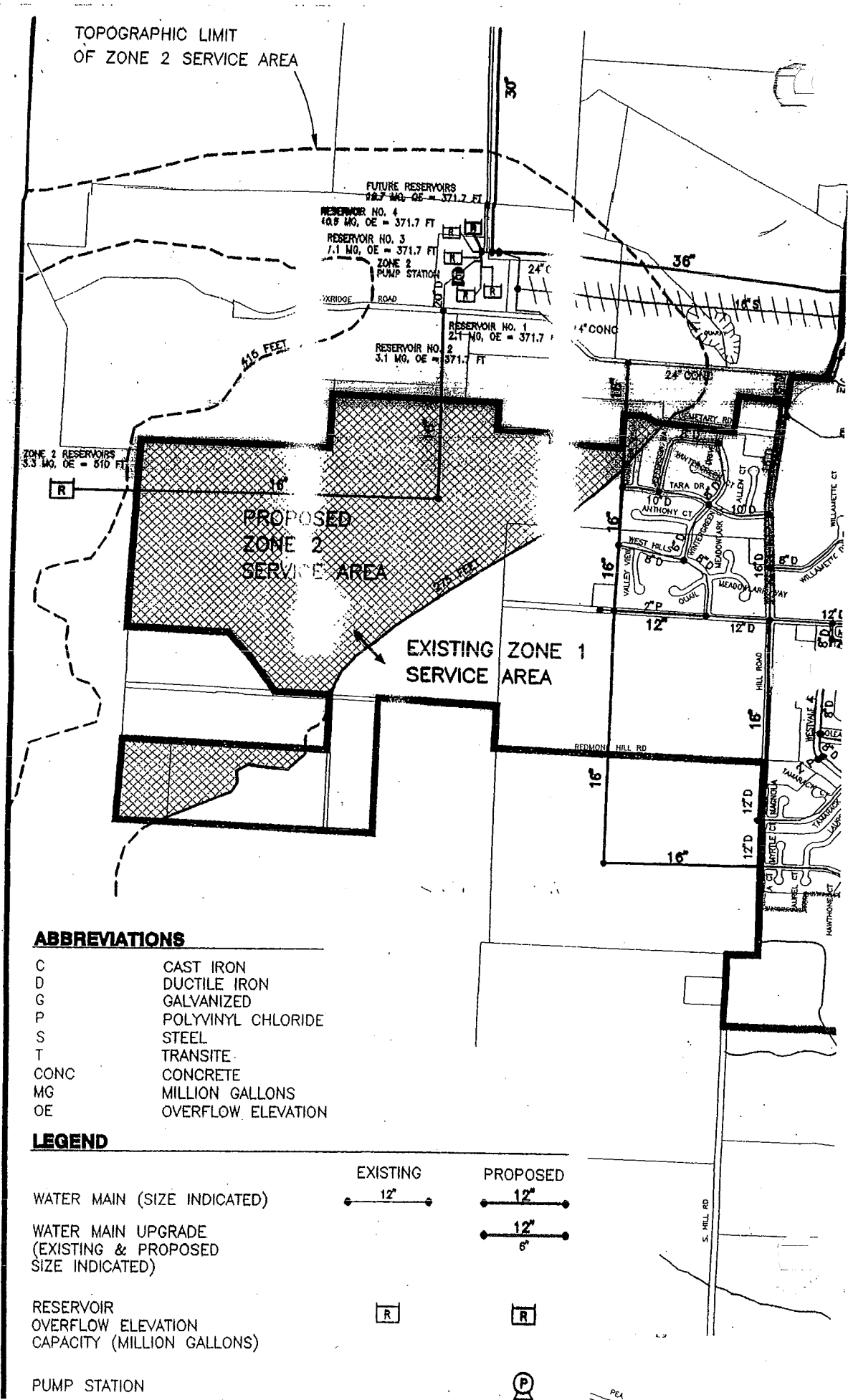
"There's not a ripple in the dirt, and there's not a tree out there. You don't want something flat with a parking lot and some ball fields."

Pearson said designers will refine the plans, based on the citizen input and on-site study, and bring a proposal back to the council later this fall.

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Attachment 2

McMinnville Water & Light Information



ABBREVIATIONS

C	CAST IRON
D	DUCTILE IRON
G	GALVANIZED
P	POLYVINYL CHLORIDE
S	STEEL
T	TRANSITE
CONC	CONCRETE
MG	MILLION GALLONS
OE	OVERFLOW ELEVATION

LEGEND

	EXISTING	PROPOSED
WATER MAIN (SIZE INDICATED)	12"	12"
WATER MAIN UPGRADE (EXISTING & PROPOSED SIZE INDICATED)		12" 6"
RESERVOIR	R	R
OVERFLOW ELEVATION		
CAPACITY (MILLION GALLONS)		
PUMP STATION		P

purposes, all the improvements are assumed to be constructed in improved areas that require crushed rock backfill and asphaltic pavement replacement.

Table 7 - 1
Recommended Water Distribution Piping Improvements

Location			Size (inches)	Length (feet)	Unit Cost (\$/L.C.)	Estimated Project Cost	Project Year
Street Name	From	To					
Hill Road	North of Fox Ridge Rd	Baker Creek Rd	24	3800	\$162	\$615,600	1996
Baker Creek Rd	Hill Road	West of Doral St	24	2100	\$162	\$340,200	1996
Wallace Rd	Wallace Way	Adams	16	1300	\$120	\$156,000	1996
Davis	Wilson Avenue	College Avenue	10	1400	\$80	\$112,000	1996
						\$1,225,800	1996
Existing 16" S ROW	Reservoir	Hill Road	36	3500	\$291	\$1,018,500	1997
Wallace Road	Hill Road	Fenton	36	4200	\$291	\$1,222,200	1998
Western Tier Reservoir	Existing Reservoirs	Zone 2 Reservoir	16	5600	\$140	\$672,000	1999
Baker Creek Rd	West of Doral St	Baker Street	24	6000	\$162	\$972,000	2000
East of Fenton	Wallace Road	West 2nd	24	2200	\$162	\$356,400	2001-2005
West 2nd	Fleishaver Lane	Baker	24	3600	\$162	\$583,200	2001-2005
West 2nd	Baker St	Johnson	24	2400	\$162	\$388,800	2001-2005
Johnson & Lafayette	West 2nd	Riverside	24	3100	\$162	\$502,200	2001-2005
Evans	West 2nd	11th	12	2400	\$93	\$223,200	2001-2005
27th Ave	McDaniel	Hwy 99	10	1500	\$80	\$120,000	2001-2005
Baker	Baker Creek	27th Ave	20	1400	\$140	\$196,000	2001-2005
27th Ave	West Side Road	Evans	16	600	\$120	\$72,000	2001-2005
						\$2,441,800	2001-2005
7th	Cedar	Adams	10	800	\$80	\$64,000	2006-2010
Adams	7th	13th	10	1600	\$80	\$128,000	2006-2010
13th & Birch	Adams	14th	10	800	\$80	\$64,000	2006-2010
Birch	15th	Baker Creek	12	2500	\$93	\$232,500	2006-2010
Galloway	18th & Hembree	Hwy 99	10	1600	\$80	\$128,000	2006-2010
Hwy 99	Galloway	McDonald	10	1300	\$80	\$104,000	2006-2010
Salmon River Hwy 39	West 3rd & Johnson	3 Mile Lane	24	6300	\$162	\$1,020,600	2006-2010
3 Mile Lane	Mobile Park	Hospital	16	2200	\$120	\$264,000	2006-2010
East Extension	Hwy 99 & Lafayette	Orchard	12	2800	\$93	\$260,400	2006-2010
East Extension	Riverside	Norton Lane	12	4800	\$93	\$446,400	2006-2010
3 Mile Lane	Hospital	Airport	14	3300	\$106	\$349,800	2006-2010
3 Mile Lane	Airport	Armory Way	12	1200	\$93	\$111,600	2006-2010
3 Mile Lane	Armory Way	Heather Drive	12	2700	\$93	\$251,100	2006-2010
Riverside Drive	Lafayette	Cascade Steel	12	1700	\$93	\$158,100	2006-2010
						\$3,582,500	2006-2010

existing Zone 1 reservoir facility on Foxridge Road. In Zone 2, it is assumed that a 1.65 mg prestressed concrete reservoir is initially sited and constructed to establish the pressure zone, with the water surface at approximate Elevation 510. It is recommended that a second 1.65 mg prestressed concrete reservoir be constructed on the same site when the Zone 2 area is sufficiently developed to require the additional storage.

Table 7 - 2
Recommended Miscellaneous Distribution Improvements

Component	Project	Cost in 1996 Dollars	Project Year
Distribution	Zone 1 Reservoir No. 5 - 10 mg	4,000,000	2001 to 2005
Storage	Zone 1 Reservoir No. 6 - 10 mg	4,000,000	2011 to 2015
	Zone 2 Reservoir No. 1 - 1.65 mg	1,220,000	1996 to 2000
	Zone 2 Reservoir No. 2 - 1.65 mg	1,220,000	2016 to 2020
Distribution Pumping	Zone 2 Pump Station	190,000	1996 to 2000
	Zone 2 Additional Pump	60,000	2016 to 2020
Land Acquisition	Short Term	250,000	1996 to 2000
	Long Term	500,000	2001 to 2025

Distribution Pumping

A booster pumping station will be required to convey water from the Zone 1 reservoirs to the proposed Zone 2 reservoirs. A structure to house the booster pumps was included in the 10.5 mg Zone 1 reservoir project that was completed in 1995. To finish construction of the pumping station, suction and discharge manifolds must be constructed and pumps installed. Two pumps, each with a capacity of 1,500 gallons per minute (gpm), will be required to deliver the maximum daily demand at saturation of the Zone 2 area. Smaller pumps may be installed initially if desired to establish supply to the Zone 2 reservoir and meet initial Zone 2 demands. However, the suction and discharge manifolds should be designed to accommodate the future requirements. Adequate space is available in the pump station for additional pumps to be installed to meet future demands as Zone 2 is developed.

Land Acquisition

Acquisition of land will be required to accommodate the recommendations of this study. Sites need to be acquired for new reservoirs. These land acquisitions should be made well in advance of anticipated construction so that development or other uses do not preclude construction of facilities in accordance with this plan. Land acquisition should proceed

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Mac Water & Light backs off urban growth limit

Published: February 15, 2001

By PAT FORGEY Of the News-Register

McMinnville Water & Light is assuring the city that city and county elected leaders, not the utility, will decide when and where the city expands.

Planners looking at the expansion of the McMinnville Urban Growth Boundary had concluded they couldn't include 200 acres in the hills west of McMinnville in their plans because of statements from Water & Light that the utility wouldn't be able to provide water service there for at least 25 years.

But Water & Light General Manager John Harshman is promising that water will be provided whenever and wherever it is needed. "We stand ready to serve that area of town if someone asks us to serve it," he said.

Earlier statements by Water Superintendent Eric Abrams had indicated to city planners that the utility wouldn't be building the necessary infrastructure for many years, as it would involve pumping water to elevations as high as 500 feet.

That caused a great deal of consternation in town among those who followed growth and development issues.

McMinnville Mayor Ed Gormley, who also chairs the Water & Light Commission, said that if the city couldn't expand on the 200 acres, it would have to look elsewhere. "It puts pressure on us to go east to get land, and we don't want to do that because it's farmground," he said.

"That's a very critical area for the growth of our town," agree Dale Moore, a Water & Light commissioner.

Abrams said miscommunication about where Water & Light would be providing service stemmed from a memo he wrote to the city in which he attempted to outline future Water & Light projects. "It was not clear," he acknowledged.

Harshman said that if the city includes the western hill property in the urban growth boundary, the utility will see that it has water available.

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However, he said it might require property developers to pay to get the water there.

"If it is inside the urban growth boundary, I believe there is an obligation for us to serve," he said. "But that doesn't mean an obligation to fund."

McMinnville's water system is now entirely gravity fed, an attribute that helps keep costs down and dependability up. Expansion of the city into the hills to the west would require pump stations.

Developers already pay expansion costs into new areas, Harshman said, and the hills would be no different.

In other water business, the commission approved a bid of \$661,465 from Kizer Excavating Co. of McMinnville to install a 24-inch water main along Baker Creek Road. "This will put big pipes from the service reservoir all the way into town," said Abrams.

Kizer was the low bidder among 23 contractors who submitted bids. Gormley said the large number of bidders was evidence of the lack of commercial work available right now.

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Attachment 3

Slopes and Density Information From Astoria

And

Photos of Multi-Family Housing on Slopes

Subject: High-density zoning in Astoria on steep slopes
From: Cameron La Follette <cameron@friends.org>
Date: Thu, 05 Jan 2006 15:55:51 -0800
To: Sid Friedman <sid@friends.org>

From: "Todd Scott" <tscott@astoria.or.us>
Date: Thu, 5 Jan 2006 14:42:13 -0800
To: "Cameron La Follette" <cameron@friends.org>
Subject: RE: Email Confirmation of information

Cameron,

Here are copies of our R-2 and R-3 zoning information. Our engineering department does have access to some of the data that OREST had prepared, so we are attempting to merge the zoning and soils maps. I'll let you know if it works.

As you know Astoria is basically a peninsula with a small flat area near the water's edge and relatively steep slopes up to a somewhat flatter area near the top of a central ridge. Many of our residential areas have been developed for nearly 100 years, and as is typical of communities like ours, the commercial development occurred in the flatter areas near the water with higher density residential adjacent to that. Low density residential developed on top of the hill and in the outlying areas. So by the nature of our development and topography, the higher density residential development is on the steepest slopes just above the commercial areas. These areas are still zoned high density residential, and while there is little large scale development there now, there is still a certain amount of infill development in these zones.

I'll provide you with the maps once I'm able to determine what format they will have to be in.

J. Todd Scott, Director

Community Development

503-338-5183

tscott@astoria.or.us

From: Cameron La Follette [mailto:cameron@friends.org]
Sent: Thursday, January 05, 2006 12:34 PM
To: Todd Scott
Subject: Email Confirmation of information

Hi Todd,

Thank you much for your time this morning. It would be most helpful if you could confirm via email that Astoria *does* have lands over 10% slope which are zoned for medium or high density housing. If you can describe in your confirmation where (in general) those lands are in the City of Astoria, that would also be of help.

I look forward to receiving the electronic copies of the zoning ordinances for those two categories; I believe those are R-2 and R-3.

Thank you additionally for speaking with CREST about maps. If they have an electronic map that shows the slope and zones together, that would of course be easiest; but I understand that you may have to send separate maps by regular mail.

Thank you for the confirmation. I look forward to receiving it.

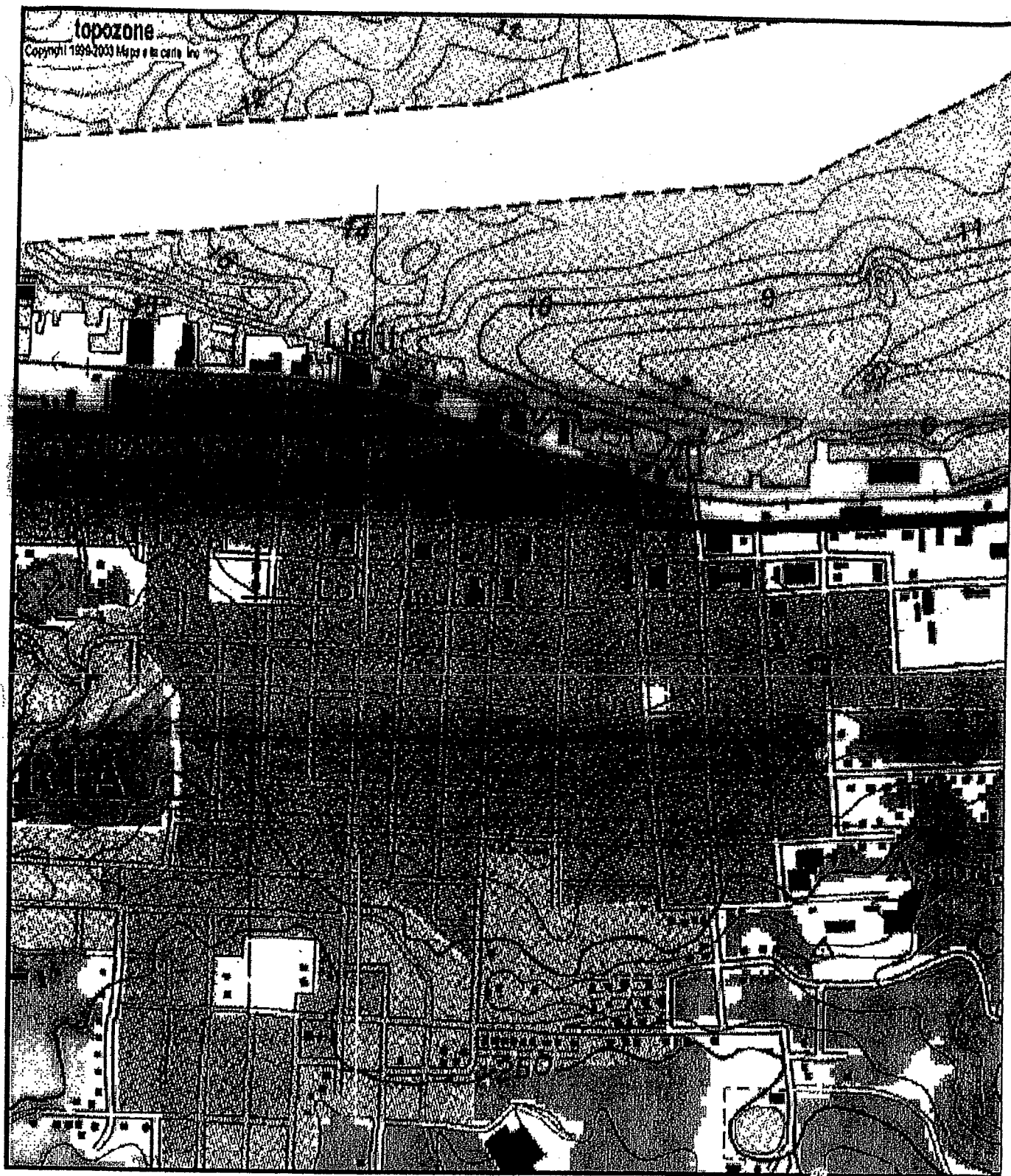
Best,

Cameron La Follette

Coastal Advocate
1000 Friends of Oregon

R-3.doc Content-Type: application/msword
Content-Encoding: base64

R-2.doc Content-Type: application/msword
Content-Encoding: base64



Map center is UTM 10 435849E 5115261N (WGS84/NAD83)
Astoria quadrangle
 Projection is UTM Zone 10 NAD83 Datum

M=17.928
 G=-0.6

City of Astoria
Development Code

R-3: HIGH DENSITY RESIDENTIAL ZONE

R-3 Zone

2.150. PURPOSE.

The purpose of the R-3 Zone is to provide an area for high density residential development not exceeding an average density of 26 units per net acre, accessory uses, and certain public uses. The policies of the Comprehensive Plan, applicable overlay zone standards, and the standards listed below, will be adhered to.

2.155. USES PERMITTED OUTRIGHT.

The following uses and their accessory uses permitted in the R-3 Zone if the Community Development Director determines that the uses will not violate standards referred to in Section 2.165 through 2.185, additional Development Code provisions, Comprehensive Plan policies, and other City laws:

1. Single-family dwelling.
2. Two-family dwelling.
3. Multi-family dwelling.
4. Accessory dwelling unit.

(Section 2.155.4 amended by Ordinance 04-10, 11-1-04)
5. Family day care center.
6. Home occupation, which satisfies requirements in Section 3.095.
7. Home stay lodging.
8. Manufactured dwelling in an approved park.
9. Manufactured home. See Section 3.140.
10. Residential facility.
11. Residential home.

R-2: MEDIUM DENSITY RESIDENTIAL ZONE

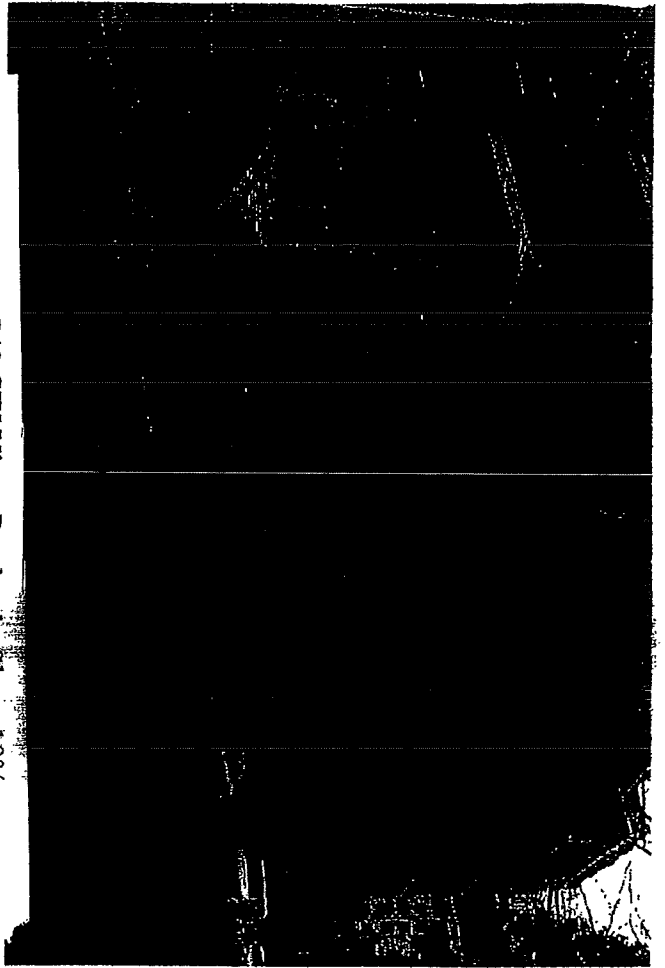
2.060. PURPOSE.

The purpose of the R-2 Zone is to provide an area for medium density residential development, at a maximum density of 16 units per net acre including single-family dwellings and duplexes as outright uses and multi-family dwellings as a conditional use. The policies of the Comprehensive Plan, applicable overlay zone standards, and the standards listed below, will be adhered to.

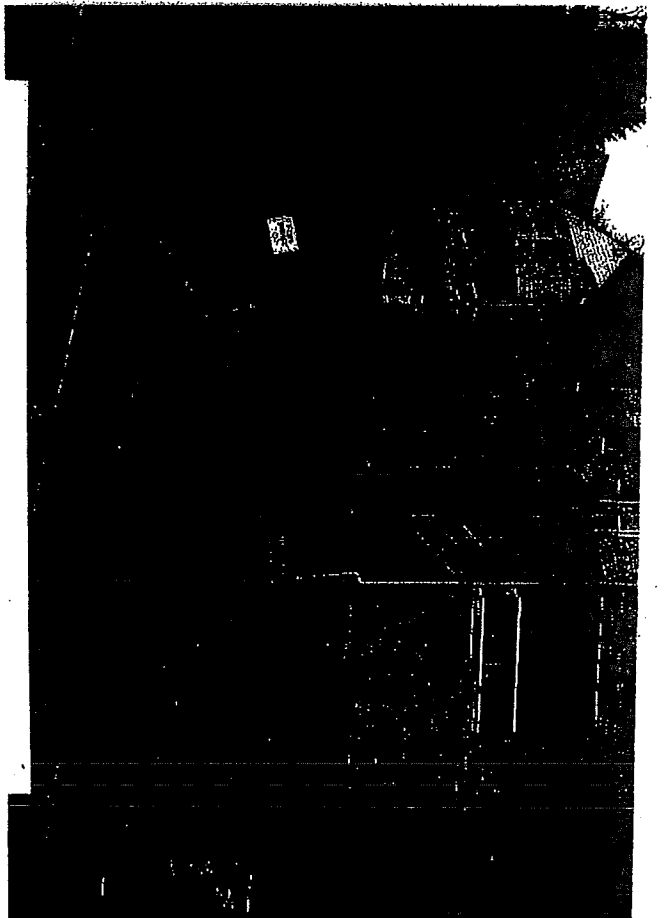
2.065. USES PERMITTED OUTRIGHT.

The following uses and their accessory uses are permitted in the R-2 Zone if the Community Development Director determines that the uses will not violate standards referred to in Sections 2.075 through 2.095, additional Development Code provisions, Comprehensive Plan policies, and other City laws:

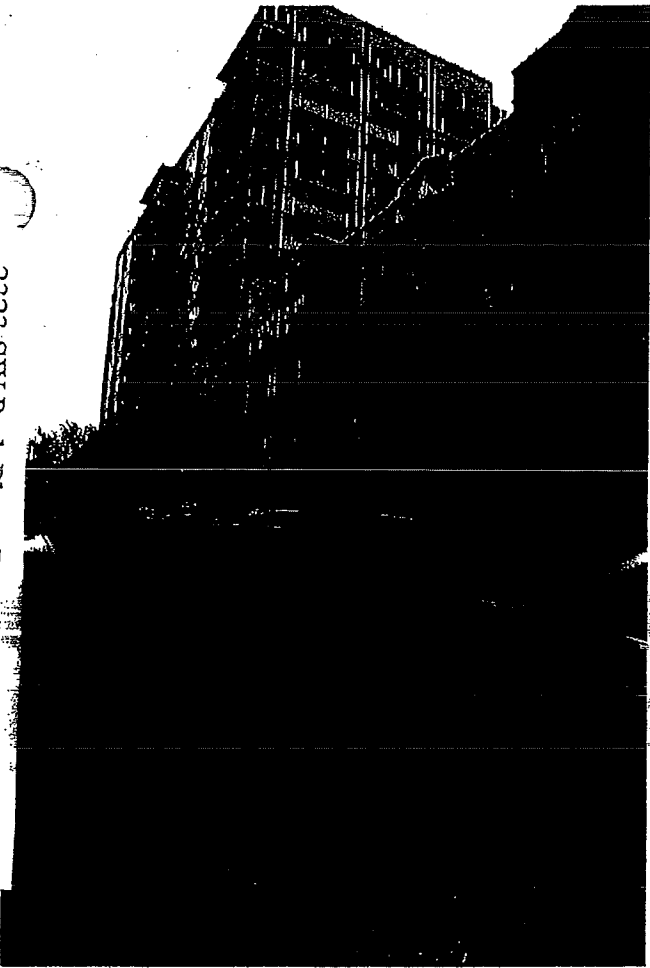
1. Single-family dwelling.
2. Two-family dwelling.
3. Accessory dwelling unit.
(Section 2.065.3 amended by Ordinance 04-10, 11-1-04)
4. Family day care center.
5. Home occupation, which satisfies requirements in Section 3.095.
6. Home stay lodging.
7. Manufactured dwelling in approved park.
8. Manufactured home. See Section 3.140.
9. Residential home.



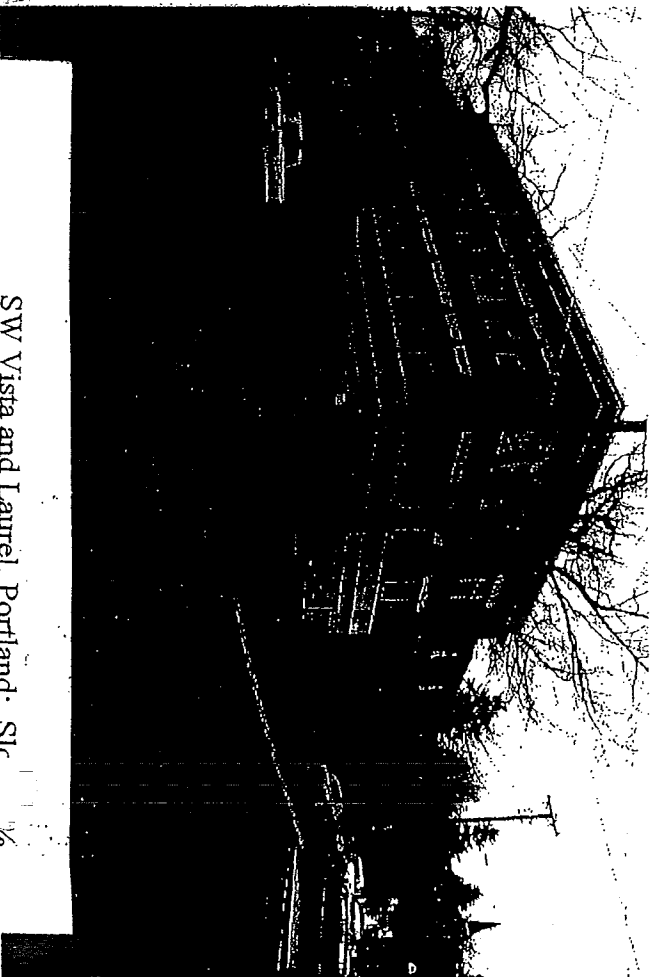
742 SW Vista, Portland: Slope 10%



NE 92nd and Russell, Portland: Slope > 20%



2323 SW Park Place, Portland: Slope 11%



SW Vista and Laurel, Portland: Slope 11%



Attachment 4

Composite Constraints and Soils Map

**Composite Constraints and
Soil Map**

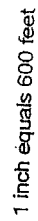


Attachment 5

Yamhill County Zoning Maps

SECTION 18, W.M.

6 5 4 3 2 1



Section Boundary

Floodplain

City

Zoning

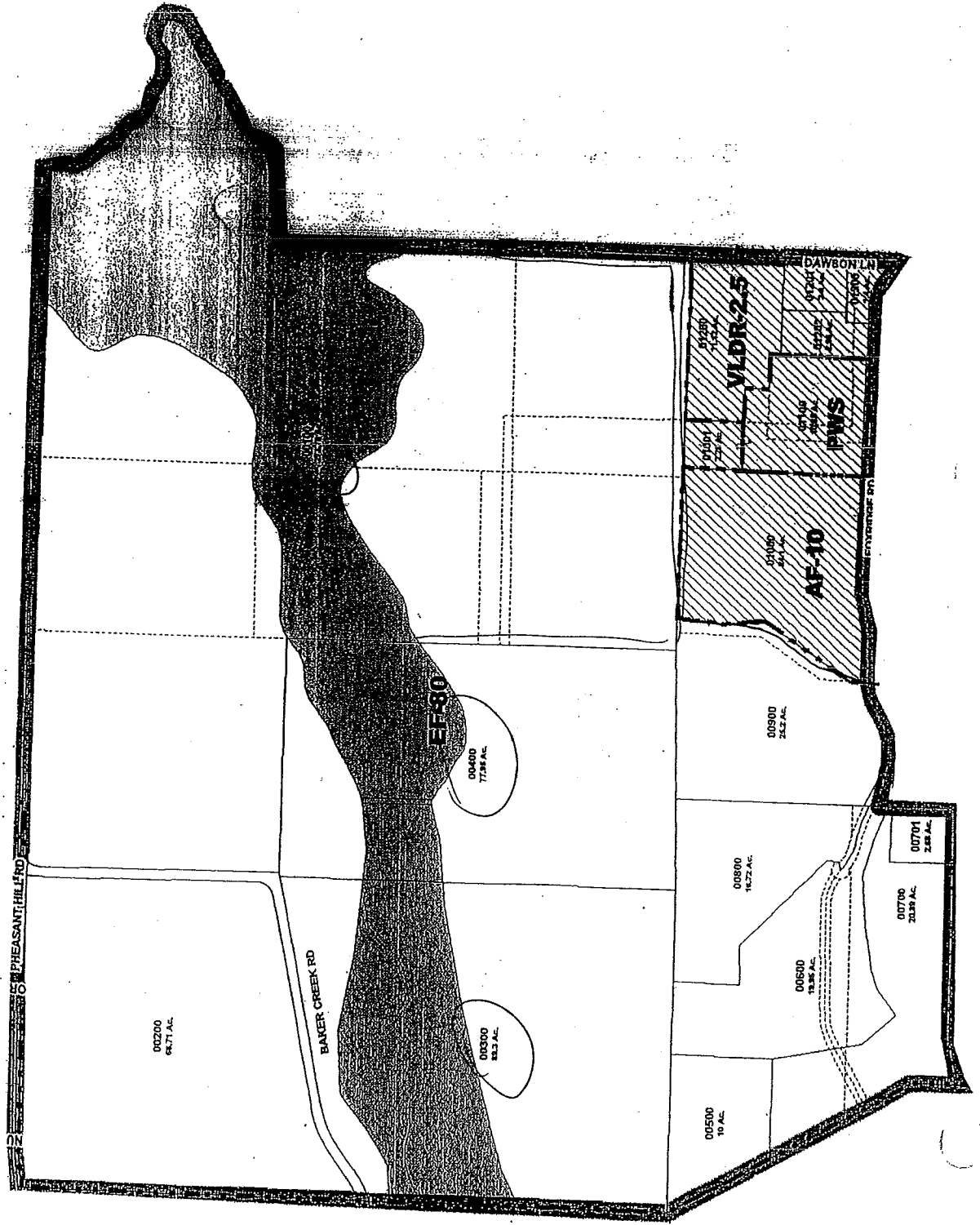
DB

YAMHILL COUNT **ZONING MAP** **T.4 S. - R.5 W.,** **SECTION 13, W.M**

1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
	6	5	4	3	2	1	



1 inch equals 600 feet



Legend

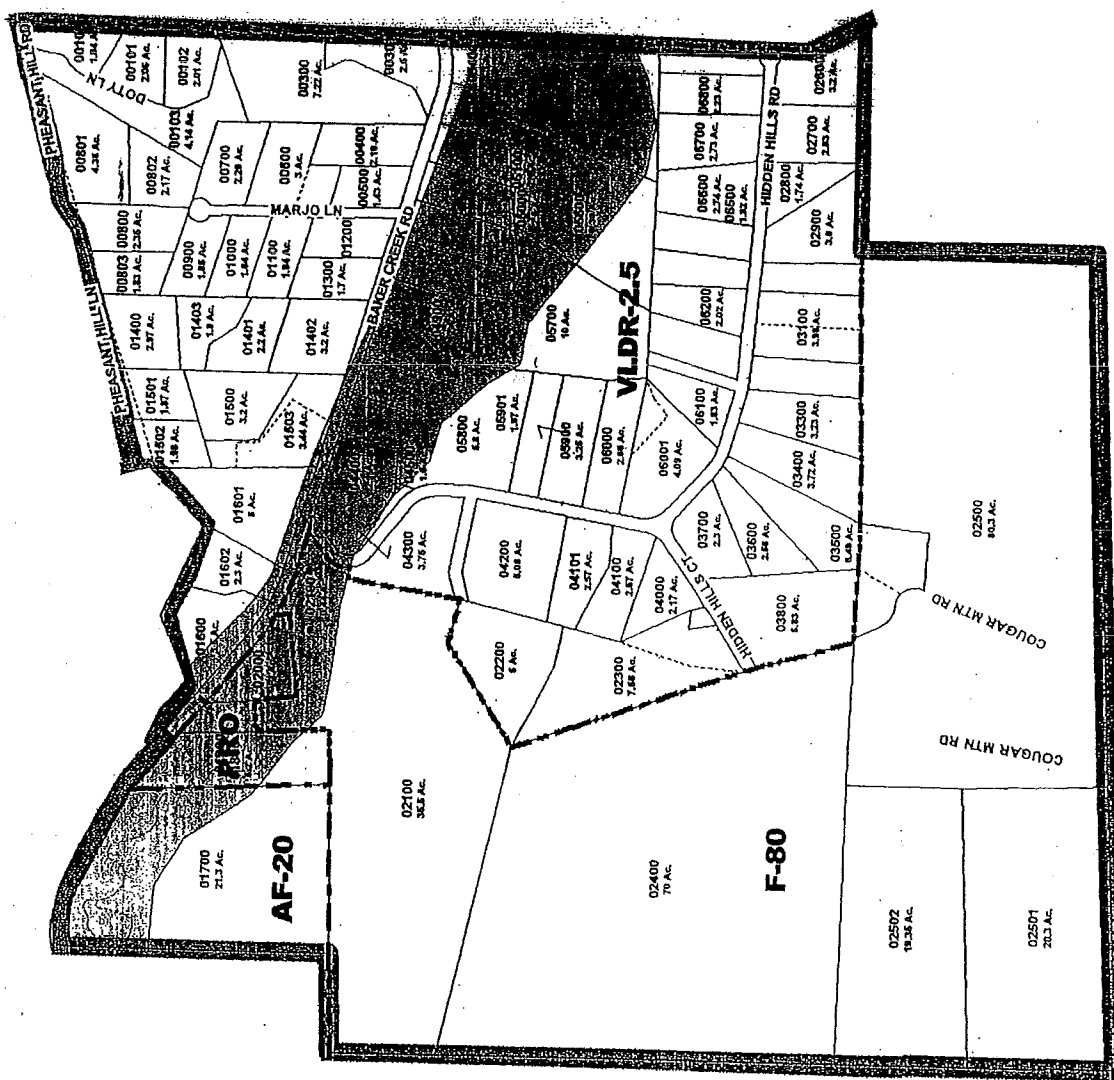
- Section Boundary
- Floodplain
- City
- Zoning
- UGB

YAMHILL COUNTY ZONING MAP T.4 S. - R.5 W., SECTION 14, W.M.

31	32	33	34	35	36
1	6	5	4	3	2
12	7	8	9	10	11
13	18	17	16	15	14
24	19	20	21	22	23
25	30	29	28	27	26
36	31	32	33	34	35
					31
	6	5	4	3	2
					1



1 inch equals 600 feet



Legend



Section Boundary



Floodplain



City



Zoning



UGB

31	32	33	34	35	36	6
1	6	5	4	3	2	1
12	7	8	9	10	11	12
13	18	17	16	15	14	13
24	19	20	21	22	23	24
25	30	29	28	27	26	25
36	31	32	33	34	35	36
	6	5	4	3	2	1



1 inch equals 600 feet

Legend



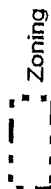
Section Boundary



Floodplain



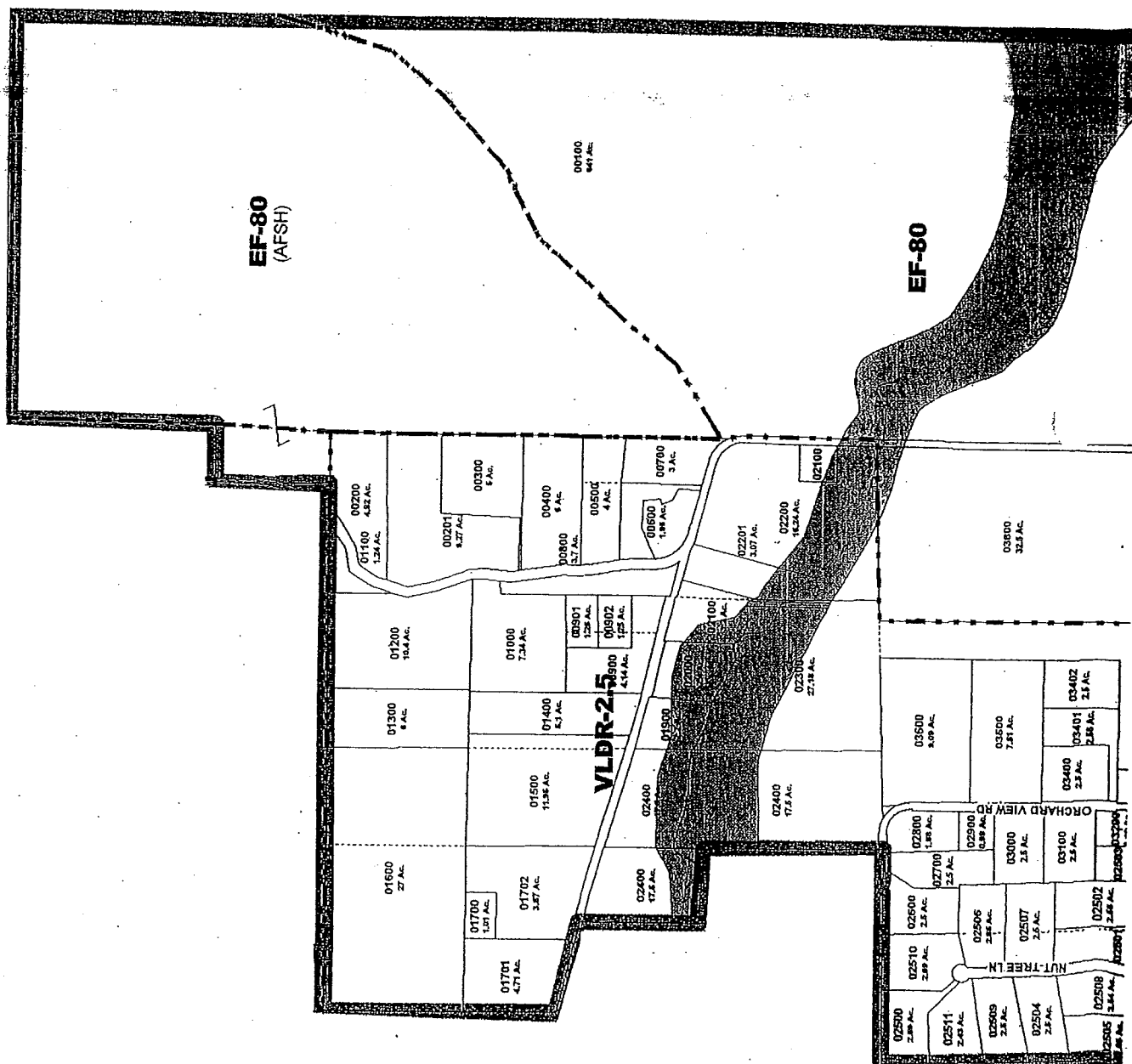
City



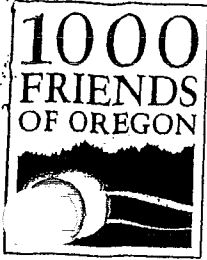
Zoning



168







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Southern Oregon Office • P.O. Box 2442 • Grants Pass, OR 97528 • (541) 474-1155 phone/fax

Willamette Valley Office • 189 Liberty St. N.E., Ste 307A • Salem, OR 97301 • (503) 371-7261 • fax (503) 371-7596

Lane County Office • 1192 Lawrence • Eugene, OR 97401 • (541) 431-7059 • fax (541) 431-7078

Central Oregon Office • P.O. Box 1380 • Bend, OR 97709 • (541) 382-7557 • fax (541) 317-9129

December 6, 2005

McMinnville City Council
Yamhill County Board of Commissioners
McMinnville Urban Area Management Commission
230 E. 2nd St.
McMinnville, OR 97128

Dear Council Members and Commissioners:

1000 Friends of Oregon and Friends of Yamhill County have been active participants in McMinnville's long-range planning activities. We support efforts to plan for and shape the community's future and continue to maintain a keen interest in the outcome of these efforts.

To that end, we have reviewed the proposed amendments to the McMinnville Growth Management and Urbanization Plan (MGMUP) and related materials. These amendments come before these bodies pursuant to LCDC Partial Approval and Remand Order 001645, which remanded all portions not explicitly approved. The City, but not the County, previously held a hearing on a separate related package of amendments in June of this year, reached a tentative decision on them, but did not move forward to final adoption.

The City of McMinnville has been engaged in a review of its Urban Growth Boundary for too long. Despite the advice of both DLCD and our organizations, the City has repeatedly taken actions that have delayed completion of this project.

The current staff recommendation will result in further delays. By shifting the goal posts to 2026, by greatly increasing the size of the proposed expansion, by eliminating any real commitment to the Neighborhood Activity Centers, by including prime farmland ahead of exception lands and lands of poorer quality, the staff proposal abandons any coherent growth management strategy and violates state law.

McMinnville is a unique community with many special attributes, despite recent development patterns that have detracted from its livability. We support a long range plan that will enhance all that is special about McMinnville. Unfortunately, the plan before you threatens many of the qualities that make McMinnville a wonderful place to live.

I. Background

Because any UGB review requires rigorous and extensive analysis, there is often a tendency to see Urban Growth Boundary proposals from a merely technical standpoint; an accounting of numbers. While much of our testimony is indeed technical, please resist that tendency. The issues impacted by your decisions are simply too important. How will the urban and rural community in and around McMinnville grow, work, shop, and live in future years?

- Will McMinnville continue to have a vital downtown?
- Will land-use decisions undermine locally owned retailers in favor of national and international chains?
- Will the recent patterns of bland, auto-oriented strip commercial sprawl be encouraged around the fringe of the city?
- Will McMinnville foster healthy neighborhoods where people of mixed incomes can live together in a variety of housing types within walking distance of shops, offices and schools?

McMinnville has a choice. It can choose to support local businesses and neighborhoods and protect the vitality of the downtown, as the community clearly wants. Or the City can plan to meet its growth needs with low-intensity, auto-dependent, cookie-cutter sprawl on large blocks of farmland beyond the existing urban area.

Since 2003 the City of McMinnville has added about 454 acres to its Urban Growth Boundary (UGB) in amendments that have been acknowledged and are in effect. The City is now proposing to expand its Urban Growth Boundary by about another 1200 acres or 2 square miles. This is in addition to more than 1000 acres of buildable land in McMinnville's existing pre-2003 UGB.

Most of the land to be added is prime farmland and is planned for residential zones. We are not aware of any other UGB expansion in state history that has included this much farmland. Farmland is not undeveloped land waiting for urbanization. It is already-developed industrial land that supports what is, by some measures, the leading industry in Yamhill County.

The City plans extensive new development west, east, north and south of the existing boundary. This includes extensive new residential and commercial development south of Three Mile Lane, creating a potential traffic nightmare.

Two years ago the City of McMinnville adopted a plan that called for a UGB expansion of 1538 acres of land, including 880 acres of buildable land. The Land Conservation and Development Commission sent the plan back for further work. Now, in shifting goal posts to 2026 the City claims it needs over a third more land than it claimed it needed 2 years ago.

Two years ago the plan adopted by McMinnville called for future development patterns based on Neighborhood Activity Centers: compact, pedestrian-friendly neighborhoods where people of varying incomes can live together in a variety of housing types within walking distance of neighborhood services. The City now proposes to drop the Neighborhood Plans and instead designate these areas for standard zoning, including commercial zones that allow fast-food restaurants with drive-up windows.

In 1999, at the request of the Urban Growth Boundary Steering Committee and the McMinnville Urban Area Management Commission (MUAMC), the City's consultant team developed an expansion proposal for the period 2000-2020, based on more efficient development that increased from a baseline of 6.2 dwelling units per net acre to an overall average of 7.5 dwelling units per net buildable acre.¹ This is significantly higher than the overall density currently proposed by the City.

~~Before reaching a decision on this proposal the City hired a new consultant team and in 2000 and 2001 developed a new analysis. Despite warnings, the City bypassed DLCD and LCDC in a process later determined to be illegal.~~

In 2003, the City decided to shift the 20-year time period covered by its plan to 2003-2023. This resulted in further delays. The City staff is now proposing to drop the Neighborhood Activity Centers, which the MGMUP calls its "centerpiece," and yet-again shift the time period covered by the plan. If these ill-advised recommendations are accepted, the City will no longer have a coherent growth management plan, resulting in even more delays.

II. Proposed Removal of Neighborhood Activity Center Designations

The designation of Neighborhood Activity Centers is the one element of the MGMUP that had nearly universal support. Billed as the "centerpiece" of the MGMUP, they were the cornerstone of a healthy future development pattern based on compact, pedestrian-friendly neighborhoods where people of varying incomes can live together in a variety of housing types within walking distance of neighborhood services. According to the MGMUP:

"Neighborhood Activity Centers are the most critical elements of the City's future growth management and land use plan." (MGMUP, p.7-7)

The text of the *MGUMP* describes them as compact, pedestrian-friendly, and transit-supportive development. The *MGMUP* largely relies upon them to justify the purported need for large blocks of flat farmland and as purported evidence that the City is sufficiently implementing "efficiency measures."

Our organizations have consistently supported the Neighborhood Activity Centers as a good concept that deserves to be implemented and implemented well.

¹ McMinnville Land Needs Analysis, February 1999, Appendix B, p. 26 (attached)

Our organizations (and DLCD) also questioned the City's commitment to implement the Neighborhood Activity Centers on which the MGMUP is based. Now city staff is recommending that the Neighborhood Activity Center designations be dropped from the plan, confirming our previous skepticism.

Instead, they recommend applying the City's acknowledged residential and commercial plan designations to these lands. These existing designations result in less efficient, less compact, auto-dependent development. Substituting these existing designations for the Neighborhood Center designations would be inconsistent with Goal 14 factors that require efficiency of land use and retention of agricultural land; with Goal 12 and the Transportation Planning Rule; and arguably, with Goal 10 and the City's own Residential Land Needs Analysis.

All of the City's existing commercial zones allow fast-food restaurants with drive-up windows and all except the Neighborhood Commercial (C-1) zone allow big-box stores with no size limitations. Is this really what the City wants for its future?

City staff proposes that instead the City prepare and implement NAC plans at some point in the future, "as funding permits." "As funding permits" is all too often never, and could very likely be after the areas develop. The City has seemingly limitless funding to pursue one of the largest UGB expansions in state history. If funding is not available to properly plan for that expansion, it should not occur.

Significantly, City staff is not arguing that the NAC plan policies and ordinance should be dropped because funding for their plans is unavailable, but rather because they object to developing the plans in a manner that satisfies the requirements explained by DLCD. Instead, they recommend dropping them, "not wanting to prolong further the fight over these matters and in an effort to bring closure to this project."

We believe your staff's position is ill-advised. Dropping the Neighborhood Activity Center designations will result in immeasurable further delay and expense.

Neighborhood Activity Centers are not only the MGMUP's "most critical elements." They are also its "centerpiece", half of its "major components," the core of its "efficiency measures," and a "cornerstone" of the plan.

If they are dropped, the city will no longer have a coherent, internally consistent plan, nor will they have implementing regulations that are consistent with the plan. The city cannot make its plan compliant based on a promise of potential future actions that are contingent on available funding.

II. Proposed Update of the Buildable Land Analysis

City staff has recommended shifting the planning period covered by the MGMUP from 2003-2023 to 2006-2026. As a corollary recommendation, City staff recommends increasing the amount of buildable land included in the UGB by an additional 330 acres from the 881 acres previously included. This is a 37.5% increase. We urge rejection of these recommendations. They are unwarranted and will delay completion of this project immeasurably.

State statute prohibits the "shifting goal post" approach advocated by your staff. ORS 197.296(2) provides:

"At periodic review pursuant to ORS 197.628 to 197.650 or at any other legislative review of the comprehensive plan or regional plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, comprehensive plans or regional plans shall provide sufficient buildable lands within urban growth boundaries established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the periodic or legislative review." (emphasis added)

The City's periodic review work program (attached) was initially scheduled for completion in December of 1998. The City and County completed adopted amendments pursuant to its review of the UGB in 2003. There can be no rational basis for arguing that the legislative review was initially scheduled for completion in 2006. Absent such a basis, shifting the goal posts cannot be legally justified.

In its October 14th memorandum suggests that shifting the goal posts is required, "to comply with the recently amended Goal 14." It is difficult to see how they reached this conclusion. The amendments are explicitly optional for any local government that initiated its UGB land supply prior to their adoption. (see "Applicability of Goal 14 Amendments, attached).

If the City were to shift the goal posts to 2026, it would need to also revise other elements of the plan so as to use consistent time periods.

These include the Residential Land Needs Analysis, adopted May 22, 2001. Unlike the 2003 Buildable Lands Analysis, which was *not* acknowledged by LCDC, the Residential Land Needs Analysis was approved, except for references to need for parkland. It covers the period 2000-2020. This analysis was prepared prior to the release of 2000 Census Data and relies on stale data from the 1990's.

For example, it relies upon median income data from 1997, household income data from the 1990 census with later estimates rather than data, tenure by housing type data

from 1990, special housing needs data from 1990-1996, and similarly stale data on national housing trends.

The City's unacknowledged Economic Opportunities Analysis was also prepared for the period 2000 to 2020 and relies in large part on data from the 1990's.

Even if the City could shift the goal posts it has incorrectly calculated its land needs.

As a threshold matter, in both the October 14 memorandum and the draft MGMUP addendum, City staff incorrectly assert that LCDC acknowledged the buildable lands analysis submitted in 2003. LCDC acknowledged the inclusion of 3 exception areas within the UGB, the rezoning of several specific tax lots, and the 2001 Residential Land Needs Analysis, *not* the 2003 Revised Buildable Land Analysis. (see attached remand order).

Be that as it may, recalculating land needs through 2026, staff has erred in:

- a. Stating in the draft MGMUP addendum that the 2003-2023 analysis estimated total land need to be 2,027 gross buildable acres and the UGB expansion need to be 1,125 gross buildable acres. These numbers fail to account for adjustments for "efficiency measures" made elsewhere in the MGMUP. Page 5-26 of the MGMUP states:

"Total land need decreases from 1,125 gross buildable acres in the revised analysis (see appendix B, Table 20) to 900 gross buildable acres, a reduction of 225 acres."
- b. Calculating parkland needs. The draft addendum to the MGMUP states that parkland need will increase by 12.7 acres from 314.0 acres to 326.7 acres. Staff has apparently overlooked adjustments to parkland need made in the 2003 MGMUP for Joe Dancer Park North. Table 16 of the MGMUP (p. 7-28) states that the 20-year land need for public parks is 254 acres. (Our additional objections to calculations of park land need are stated elsewhere.)
- c. Calculating public and semi-public land needs. The draft MGMUP Addendum calculates all "other public and semi-public," land needs as additional to land needed for housing, commercial and industrial. Table 19, Appendix B, of the MGMUP, cited in the Addendum as the basis for their calculations, makes clear that the majority of these uses will locate on commercial and industrial land already accounted for elsewhere in staff's calculations of increased land.
- d. Calculating land needed for housing. The draft MGMUP Addendum, calculates additional land needed for housing at 5.7 dwelling units per acre, the overall average density for housing cited in Table 16 of the MGMUP. However, staff is recommending that all additional land need attributable to shifting the goal posts

be accommodated on resource land. The MGMUP calculates density on resource lands at 6.3 dwelling units per acre.

- e. Calculating land consumed between January 1, 2003, and January 1, 2006. According to the draft MGMUP Addendum due to development activity, there will 262 fewer acres available within the UGB then there were in 2003. The City has provided us with the underlying data they used in reaching these conclusions. An examination of the data and of the properties listed therein reveals that a significant proportion of these properties are still available to absorb growth. While building permits have been issued for them, on many of the properties construction has not been completed (or in some cases, even begun). People are not yet living or working in the yet-to-be-completed buildings, but in the future they will be. These properties will still accommodate new population and new jobs.

IV. Amount of Land Needed for UGB Expansion

Since 2003 the City of McMinnville has added about 454 acres to its Urban Growth Boundary (UGB) in amendments that have been acknowledged and are in effect. These include the Riverside South area, the Redmond Hill area, the Fox Ridge Road area, the Hill Road School site, and the Evergreen Museum expansion. With the exception of the Evergreen expansion site, these were all part of the larger boundary expansion adopted with the MGMUP in 2003 and that is before you here on remand.

In determining how much additional land must still be added to the UGB, the City and County should consider:

- a. The recent acquisition of the Linfield elementary school site. As noted in the draft MGMUP Addendum, "This reduces projected school needs by 12 acres."
- b. The impact of amendments tentatively approved in June. In June of this year the City Council tentatively approved a number of efficiency measures that will generally increase the densities permitted in several areas of the City. These amendments will reduce the amount of land needed within the UGB.
- c. The impact, if any of the Evergreen Expansion. The City needs to either account for the employment growth that will be absorbed on these 35 acres or explain why it will not absorb any of the identified employment growth.
- d. Additional issues related to land need previously raised, including, but not limited to; a) the City's insistence that every acre of neighborhood and community parks must be located on buildable land; b) the ratio of land to commercial building space in Neighborhood Activity Centers; and c) the capacity of areas within the acknowledged UGB, including Riverside Drive.

V. Move Three-Mile Lane NAC to the Norton Lane Area

The MGMUP should be amended to move the proposed Three-Mile Lane Neighborhood Activity Center across Highway 18 to the Norton Lane Area.

The Norton Lane Area is a much better location for a Neighborhood Activity Center on the south side of the City. This area is in close proximity and has easy pedestrian access to the new Chemekata Community College location, movie theaters, restaurants, medical offices, and government offices including the State Department of Human Services and the new Yamhill County Housing Authority complex. The area is adjacent to existing residential development and its development could incorporate the new college campus and the continued redevelopment of the Tanger outlet mall. It is on the same side of the Highway as the existing urban area, an existing frontage road already provides access to downtown and the rest of McMinnville, and access to Joe Dancer Park could be developed.

In contrast, the Three Mile Lane Area south of Highway 18 is not a good location for a Neighborhood Activity Center. The Highway is a 5-lane limited access facility with frontage roads. It creates a physical barrier that isolates that area from the rest of the City, discouraging non-vehicular ingress and egress.

VI. Commercial Land and Buildings in the NACs

Within the Neighborhood Activity Centers, the ratio of needed land to the square footage of retail and office space is based on assumptions of large amounts of land needed to accommodate relatively little building space. Page D-20 of the MGMUP assumes that 5 to 10 acres of buildable land will be needed for each 50,000 to 100,000 square feet of commercial or office building. This is an acre of land for every 10,000 square feet of building. This is a land-use pattern associated with auto-oriented big-box development, not pedestrian-friendly neighborhood centers. The ratio of land to built space is inconsistent with the stated goal of providing pedestrian-friendly, transit supportive, compact neighborhood commercial development.

VII. Parkland projections

We do not dispute the need for additional parkland. We *do* dispute the City continued insistence that every acre of neighborhood and community parks must be located on buildable land. About 30% of all gross buildable land included in 2003 UGB expansion is for parks. It is both City practice and policy to locate parks in floodplain.

The City has included park land in the category of buildable residential acreage but has not adopted any land use measures to protect this acreage for eventual park use, nor has the City proposed any funding mechanism to purchase this many buildable acres of parkland.

In fact, the City continues to locate playing fields on floodplains, including the soccer and ball fields recently constructed in Joe Dancer North. (see attached photos). These fields were constructed *after* the City began projecting every acre of active recreational park must be located on buildable land.

VIII. Riverside South

The MGMUP significantly underestimates the development capacity of the Riverside South area, which is now within the City's acknowledged UGB. Although it contains large tracts of vacant land, it is assumed it will develop with a gross density of only 4.3 dwelling units/gross buildable acre. Other areas within the existing UGB are assumed to develop at 5.7 dwelling units/gross buildable acre and other large vacant expansion areas are assumed to develop at 6.3 dwelling units/gross buildable acre.

The Riverside South area could readily accommodate a NAC. Figure 26 (page C-57), Figure 28 (p. C-60), and Figure 29, (p. C-61) show that there is a large block of flat vacant land of approximately 40 acres with no improvement value, right in the middle of the exception area. Additional developable land is adjacent to this core area.

Taken together, tax lots 2100, 2101, 2102, 2590 and 3100 form a contiguous block of over 55 acres that is traversed by a designated major collector and contains only one existing structure in the extreme northeast corner. (see photos).

is falls well within the mid-range of the 28 to 70 acre combined focus and support area that the Plan lists as optimal for an NAC. If an NAC of approximately 60 acres were planned for the Riverside South Area, less farmland would be lost to UGB expansion and there would be less vehicle miles traveled in and out of the neighborhood because services would be more accessible.

Regardless of whether or not a Neighborhood Activity Center is located Riverside South the City has underestimated the capacity of the area. Therefore, the size of the proposed UGB expansion has not been justified.

IX. Location of Boundary Expansion- ORS 197.298

The location of the proposed Urban Growth Boundary Expansion is governed by the priorities set forth in ORS 197.298.

Under ORS 197.298, the highest priority lands for inclusion in an expanded UGB is land that is designated urban reserve land. Since McMinnville has no urban reserves, highest priority lands for inclusion is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Lowest priority lands for inclusion is land designated in an acknowledged comprehensive

plan for agriculture or forestry, and within this lowest priority category, higher priority shall be given to land of lower capability soils.

Lower priority lands can only be included in the UGB if identified land needs cannot be reasonably accommodated on higher priority lands.

As the Department of Agriculture explains in a letter to the City dated August 1, 2003, (attached), a UGB land priority analysis needs to be coordinated around the perimeter of the entire UGB. Goal 14 requires an analysis of the compatibility of proposed uses within potential expansion areas with nearby farm and forest activity. These analyses still have not occurred.

- 1) **Exception Areas.** The City's UGB expansion *excludes* over 225 ***BUILDABLE*** acres of exception land in 5 areas. Under ORS 197.298, exception land must be included in a UGB instead of resource land if it can reasonably accommodate some portion of identified needs,² which these areas can. It is always easier to urbanize flat farmland than exception areas. The 5 excluded exception areas are no different than any other exception areas in this regard. Resource areas with lower capability soils that McMinnville passed over in its UGB expansion include areas both east and west of the City.

While the City has not adequately justified the exclusion of any of these areas, (see attachments), we specifically address some of the excluded exception areas below:

- a. **Bunn's Village.** The Bunn's Village exception area contains approximately 126 gross vacant buildable acres.³ As detailed in the attachments, this area *can* reasonably accommodate some portion of the identified land need.

Resource land cannot be included within the expanded UGB and Bunn's Village excluded simply because major street, water and sewer improvements are required to urbanize the 126 buildable acres in Bunn's Village. Major street, water and sewer improvements are almost always required when large areas are urbanized. Bunn's Village is no different in this respect. The Three Mile Lane area included within the UGB contains just a little more buildable land than Bunn's Village, 157 gross vacant buildable acres. Highway 18 is wider than the North Yamhill River. Major street, water and sewer improvements must be extended under Highway 18 to urbanize this prime farmland. To include Three Mile Lane and other resource areas in the UGB while excluding Bunn's Village, would violate ORS 197.298.

The North Yamhill River is not the Willamette River. One can throw a stone across it. (see photos). There is no evidence to support a finding that construction of a new bridge

² In *Residents of Rosemont v. Metro*, the Court of Appeals ruled the statute asks whether exception areas can accommodate the use at all, not whether they can do so as efficiently or beneficially as farmland.

³ *MGMUP*, p. C-36

for local access separated from 99W is unreasonable nor is there anything to suggest that more than one new bridge for local access would be needed.

The MGMUP and the City's 2003 findings rely in part on difficulties with urbanizing the "leg" of Hawn Creek Road.⁴ The City should consider the possibility of including the 110 buildable acres in the rest of the Bunn Village sub-area and excluding these 16.52 buildable acres. This less-developed portion of the area is about ½ mile in width and contains several large vacant areas (see photos).

b Riverside North. The Riverside North area contains over 36 gross vacant buildable acres within the "natural edge" of the Yamhill River that the MGMUP states should define the urban area.⁵ It is evident from the aerial photo on page C-42 of the MGMUP that virtually all of the land outside the floodplain is vacant. The sub-area is "predominantly flat to gently rolling terrain..."⁶ The MGMUP concludes that, "urban services necessary to support [urban densities]... can be extended to it."⁷

The City contends that the area cannot reasonably accommodate residential use because of proximity to industrial uses, the sewage treatment plant, and railroad. However, the area could also accommodate some portion of the identified need for commercial land or other non-residential uses.

Moreover, the City has not adequately addressed the possibility of bringing Riverside North into the UGB as industrial land, and then rezoning existing industrial land within the existing UGB for residential and/or commercial uses, contrary to Goal 14 and the Goal 2, Part II standards. This would allow land needs to be reasonably accommodated on higher priority lands, rather than lowest priority lands. Among other possible areas, the aerial photos in the record show a large, vacant tract of industrially zoned land directly adjacent to the western edge of the Riverside South sub-area, between Blossom Drive, Miller Street, and Colvin Lane.⁸ This tract would be a good candidate for such redesignation to residential and would reduce potential land use conflicts.⁹ Ironically, similar potential conflicts are the very reasons the city advances for excluding Riverside North.

Finally, this is a large area. It contains developable land that is up to half a mile from either the sewage treatment plant or any industrial use. There should be ample opportunities to provide buffering between any incompatible uses.

This area can reasonably accommodate some portion of the identified land need and it should be included within the UGB ahead of lower priority resource lands. (see attached photos).

⁴ Findings, p. 29

⁵ MGMUP, p. C-45

⁶ MGMUP, p. C-41

⁷ MGMUP, p. C-49

⁸ MGMUP, pp. C-57, C-4, p. 7-30

⁹ 1000 Friends Exceptions, p. 24

c. Booth Bend Road. The Booth Bend Road exception area contains approximately 13 gross vacant buildable acres.¹⁰ The *MGMUP* concludes that, "urban services necessary to support [urban densities]... can be extended to it."¹¹ Costs of providing water and electrical service are estimated as low.¹² Adjacent areas within the existing UGB are developed residential areas.¹³ The school district has just purchased a future elementary school site less than 1000 feet from the boundary of the sub-area.¹⁴ This area can reasonably accommodate some portion of the identified need for residential and commercial land.

The City proposes to include the Three-Mile Lane and Lawson Lane areas on the same side of Highway 18 as the Booth Bend Road area. If these areas are included in the UGB, the Council and Commissions should also include the Booth Bend Road area.

d. Old Sheridan Road.

The Old Sheridan Road exception area contains approximately 36.5 gross buildable acres and the sub-area is virtually flat.¹⁵ Adjacent areas within the existing UGB are already developed or planned to develop with residential uses.¹⁶ The *MGMUP* concludes that, "urban services necessary to support [urban densities]... can be extended to it."¹⁷ Costs of providing water and electrical services are estimated to be moderate and low, respectively.¹⁸ While sewer costs are estimated to be high, this is due, in part, to the cost of providing service to the southwestern portions of the sub-area, which are more distant from the existing UGB.¹⁹ The City did not consider the costs of sewer service if just the portions of the sub-area closest to the UGB were to be included.

The area fronts Old Sheridan Road, which provides direct access to almost all other destinations in the city. In fact, urban levels of residential development are already occurring within the adjacent part of the city to the east that also lies between Highway 18 and Old Sheridan Road. This development has no access to Highway 18 and takes all access from Old Sheridan Road. This is clearly illustrated in Figure 51 the *MGMUP*, Appendix C, page C-100. There is no reason that this exception area can't be developed with the same traffic pattern as the adjacent land already within the city.

This area can reasonably accommodate some portion of the identified land need and the Commission should reject its exclusion from the UGB. (see attached photos)

¹⁰ *MGMUP*, p. C-88

¹¹ *MGMUP*, p. C-93

¹² *MGMUP*, p. C-92

¹³ *MGMUP*, p. C-84

¹⁴ News-Register article attached.

¹⁵ *MGMUP*, p. C-97

¹⁶ *MGMUP*, p. C-100

¹⁷ *MGMUP*, p. C-107

¹⁸ *MGMUP*, p. C-106

¹⁹ *MGMUP*, p. C-104

- 2) **Resource Areas.** There are extensive areas of poorer quality soils adjacent to the existing UGB, particularly to the west of Hill Road as well as smaller areas north and east of the airport and between the two Riverside exception sub-areas. In 2003, the boundary that is back before you on remand was expanded onto higher quality soils instead of into these areas.

While City staff now proposes to include some of these areas of poorer soils, it still proposes to exclude large portions of these areas of poorer soils without adequate justification.

- a. **Northwest subarea.** In 2003, the boundary of the Northwest sub-area was drawn to include Class I and II soils north of the area of Class III soils, rather than westward to include Class III and IV soils just north of the Fox Ridge Road sub-area.²⁰

The City's UGB amendment for a new High School site west of Hill Road, was recently acknowledged. The portion of the Northwest subarea to the north of this portion of the acknowledged UGB is predominantly Class I soils. The portion of the subarea to the south of this portion of the acknowledged UGB is predominantly Class III soils.

The subarea boundary should be redrawn to exclude the area of predominantly Class I soils

- b. **Abrams Tax Lot 100.** We agree with City staff that tax lot 100 south of Baker Creek is a higher priority for inclusion within the UGB than resource areas of higher quality soils. Tax lot 100 lies just north of the Fox Ridge subarea, which is now part of the City's acknowledged UGB. The objections we filed with DLCD in 2003 pointed out this area is comprised of poorer soils than other areas included within the boundary and is therefore a higher priority than any of the resource land subareas included in the 2003 expansion.

- c. **Thompson area properties.** We agree with City staff that the Thompson property and the area of predominantly Class III soils to the south of it are a higher priority for inclusion within the UGB than resource areas of higher quality soils. The objections we filed with DLCD in 2003 pointed out this area is comprised of poorer soils than other areas included within the boundary and is therefore a higher priority than any of the resource land subareas included in the 2003 expansion. While the area may be "suitable" for low density housing, as staff recommends, it is also a large vacant area that can certainly accommodate more efficient use of land, including medium and high-density housing, or a Neighborhood Activity Center.

The area east of the Thompson property proposed for inclusion by staff is comprised of predominantly Class II soils and can only be included in the UGB if identified land needs cannot reasonably be met on higher-priority land.

²⁰ See MGMUP, p. C-190. soil maps placed in local record

d) Other higher priority west side lands. There are additional large areas of lower-capability soils west of McMinnville's acknowledged UGB. These areas are a higher-priority for inclusion within the UGB if they can reasonably meet some portion of identified land needs.

We agree with staff's conclusion that lands within the crescent-shaped area of slopes greater than 25% are too steep to reasonably accommodate identified land needs. Staff has either not addressed other higher-priority areas or offered inadequate justifications for excluding them.

The staff memorandum contends that the large area of predominantly Class III soils that lies within the steeply sloped crescent cannot meet identified land needs for several reasons that do not stand up to scrutiny.

- Staff argues these lands have a history of forest use, and are covered in grasses and dense stands of trees. We fail to see how this leads to a conclusion that these lands cannot reasonably meet identified land needs.

- Staff argues that a McMinnville Plan policy makes these lands "most appropriately zoned low-density and the City has already allocated enough low-density land. The existence of a plan policy does not mean these lands cannot reasonably accommodate denser housing. The MGMUP defines low density housing as < 4 units per acre, medium density as 4-8 dwelling units/net acre and high density residential as anything > than 8 dwelling units/net acre.

The memorandum implies that these lands can only accommodate low-density housing because they predominantly have slopes above 10%. A topographical map seems to show areas of lesser slope adjacent to the existing UGB, but even if true, there is nothing inherent in slopes greater than 10% that prevents housing at 4 units per net acre and higher. One need only look at Astoria, Gaston, San Francisco or Seattle.

- Even if these lands truly could only accommodate low-density housing, the City proposes to allocate low-density housing to every expansion area proposed for inclusion. The City could upzone low-density land within the existing UGB or reallocate land in other expansion areas and replace that low density housing with this higher-priority land.

- The memorandum implies that these lands cannot meet identified land needs because McMinnville's current water system is only designed to serve lands up to 275' in elevation. It is often necessary to upgrade infrastructure to serve a UGB expansion area. In this case, those upgrades are already needed. Lands both within the existing pre-2003 UGB and within the already acknowledged Redmond Hill Road and Fox Ridge Road expansion areas range up to and above 400' in elevation.

The staff memorandum does not address other higher-priority areas on the west side including predominantly Class III lands that are immediately south of the Class III lands

proposed for inclusion in the Thompson area and Class III lands immediately west of Abrams Tax Lot 100.

e) Higher Priority East side lands. The City contends that higher-priority areas of Class IV soils east of the airport cannot reasonably accommodate residential development due to their proximity to a "Weapons Training Facility" near the west end of Runway 4-22. City staff located it on a map for McMinnville residents Mike and Frances O'Brien. As the attached maps document, it is located closer to the area of the Three Mile Lane expansion area proposed for residential use (about $\frac{3}{4}$ mile) than to the edge of the broad area of Class IV soils east of the airport (over 1 mile). We therefore conclude that much of the Three Mile Lane area, which is predominantly Class II soils and is closer to the weapons training facility likewise cannot reasonably accommodate residential development.

The City has not addressed other higher priority east side lands.

X. Process

We have three concerns regarding the process being used to consider these amendments:

First, we believe it is poor policy for the City Council, the County Board of Commissioners Urban Area Management Commission to hold one joint public hearing on these amendments, rather than separate hearings. These bodies have differing roles, differing constituencies, and differing responsibilities. The joint hearing process creates the perception and perhaps the reality that the public hearing is viewed as an inconvenient requirement rather than a genuine opportunity for decision-makers to consider public testimony and alter the proposal accordingly. This is unfortunate.

Second, Goals and Policies on p. 45 of McMinnville's Comprehensive Plan require the City to involve its Citizen's Advisory Committee in major plan amendments (policy 190.00) and in periodic review (policy 191.00). These policies implement statewide planning Goal 1. We believe the City's failure to involve the C.A.C. in its review of these new proposals is a failure to comply with both the City's own plan and with Goal 1.

Third, the staff memorandum recommends adoption of amendments to the MGMUP that have not yet been drafted. This hearing must be held open until such time as the actual amendment language is available for review and comment.

In addition, we hereby renew our previously filed objections and exceptions, to the extent they have not been decided by LCDC or are not satisfactorily addressed in these remand proceedings. (1 copy submitted to record). They are:

- 1) Objections related to the Economic Opportunities Analysis
- 2) Objections related to Efficiency Measures
- 3) Objections related to the Neighborhood Activity Centers

- 4) Objections to related to the Buildable Lands Analysis, including, but not limited to parkland and the capacity of Riverside South.
- 5) Objections related to Specific amendments to plan text and code text
- 6) Objections related to the location of the UGB expansion (197.298)

For your convenience we have also attached a copy our testimony of May 24, 2005.

We hope these comments are helpful. Please include them in the official record of this proceeding and provide use with written notice of your decision in this matter.

Sincerely,

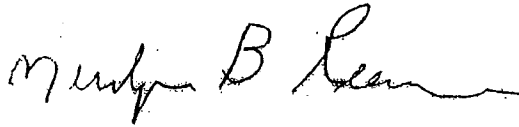
Merilyn Reeves
Friends of Yamhill County

Sid Friedman
1000 Friends of Oregon

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Merilyn Reeves
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Sincerely,



Sid Friedman
1000 Friends of Oregon

Attachments:

1. McMinnville Land Needs Analysis, February 1999, Appendix B, p. 26
2. Periodic review program
3. Goal 14 applicability
4. LCDRC Partial Approval and Remand Order 001645
5. Joe Dancer North photographs (new ball fields in floodplain)
6. Riverside South photographs
7. Dep't of Agriculture letter dated August 1, 2003
8. News-Register article, "District acquires southeast school site" July 15, 2003
9. Exception Area photographs
10. Topographical Map
11. Maps showing location of Weapons Training Facility
12. Soils maps]
13. 1000 Friends Testimony dated May 24, 2005

Parcel Spreadsheets from City (1 copy submitted to record)

Objections and Exceptions filed by 1000 Friends and Friends of Yamhill County (1 copy submitted to record)

Cc: DLCD
Dep't of Agriculture

during the last 10 years. We also concluded that, absent substantial changes in market conditions, there is no reason to believe that the actual mix of housing types and densities observed from 1987-1998 would change in any major way.

This section concludes that housing trends in McMinnville will continue towards smaller lot sizes and increased multi-family housing demand. Household incomes have not kept pace with rising housing prices in McMinnville since 1990, despite the City's flexible zoning scheme. However, zoning in McMinnville did little, if anything, to exacerbate these trends.

Increased land and public facilities cost trends are likely to continue, under any zoning scheme, resulting in the need for smaller single family lot sizes and more attached and multiple family housing. However, our analysis of McMinnville's existing residential zones showed that its four existing residential zones are sufficiently flexible to accommodate probable increased demand for affordable housing (i.e., small-lot single family, attached single family, manufactured and multi-family) opportunities. Had market demand existed, McMinnville zoning could have accommodated, and can accommodate in the future, more than 10 dwelling units per net buildable acre.

However, McMinnville's existing zoning has resulted in land use inefficiencies. Single-family housing has been platted or constructed near commercial areas and along potential transit routes, thus increasing automobile dependency and reducing transit use. Low density residential development patterns in developing suburban areas are not supportive of neighborhood commercial centers, and discourage bicycle and pedestrian travel. More importantly, low density residential development consumes agricultural and forest land that could otherwise be conserved with a more compact urban growth form. Finally, compact residential growth decreases land and public facilities expenses – costs that are likely to comprise an increasing percentage of housing costs for existing and future McMinnville residents.

For these reasons, at the request of the Urban Growth Boundary Steering Committee and MUAMC (McMinnville Urban Area Committee), we have developed a more intensive, higher density residential development scenario, based on 7.5 dwelling units per net buildable acre. This amounts to an increase of 20% over existing residential densities, which should be sufficient to accommodate probable changes in market conditions. The 7.5 du/acre scenario is also conducive to a more compact urban growth form, increased land use efficiency and decreased reliance on automobiles for travel needs. The 7.5 du/acre scenario also is necessary to achieve the "mixed use node" objectives identified by the UGB Steering Committee in 1996.

Task 5: Determine Public and Semi-Public Residential Land Needs

Public facilities such as schools, hospitals, governments, churches, parks, and other non-profit organizations will expand as population increases. Such uses typically locate on land designated for residential use. We have analyzed such need in conformance with ORS 197.296(4)(a).

CITY OF McMINNVILLE

PERIODIC REVIEW WORK PROGRAM SUMMARY

DLCD Regional Representative and Periodic Review

Team Leader: Larry Ksionzyk

Phone: (503) 373-0050 extension 278

Fax: (503) 378-5518

City Planning Director, Richard M. Highsmith Phone: (503) 434-7311

Yamhill County Planning Director: Michael Brandt Phone: (503) 434-7516

Date Work Program Approved by DLCD: August 26, 1994

Revised Date: July 14, 1997

Final Work Program Completion Date: June 30, 1995

Revised Date: June 30, 1997

December 31, 1998

Major Work Tasks Subject to Public Notice and DLCD Review (See OAR 660-25-130)

#	Work Program Reference	Task Summaries and Product(s)	Submittal Date(s)
1	Tasks 1 (a), (b), (c), (d), (e), (f), (g), (h), & (i)	Inventory of commercial lands.	6/30/95 6/30/97 9/30/98 Rec'd 10/16/2003 Under Review by Larry Ksionzyk 10/21/2003 Objections Friends of Yamhill 10/31/2003 Community Law Office 11/05/2003 60-day letter sent 12/12/2003 Referral letter sent out to parties referring task to LCDC on 02/13/2004 Partial Approval and Remand 12/06/2004

2	Task II(a), (b), (c), (d), (e), (f), & (g)	<i>Transportation System Plan</i>	2/28/95 6/30/95 6/30/97 12/31/98
3	Task III(a), (b), & (c)	<i>Public Facility Plan</i>	1/31/95 6/30/95 Completed
U G B	UGB	Urban Growth Boundary Expansion	Rec'd 10/16/2003 Under Review by Larry Ksionzyk 10/21/2003 Objections Friends of Yamhill 10/31/2003 Community Law Office 11/05/2003 60-day letter sent 12/12/2003 Referral letter sent out to parties referring task to LCDC on 02/13/2004

Additional Comments

The dates listed under ADate of Involvement= column refer to the times when a agency=s participation in a particular work task is important. However, agencies and other groups are advised to monitor other subtasks related to that work task, particularly the adoption of needed amendments to the City of McMinnville=s comprehensive plan and land use regulations.

Federal and State Agencies, Special Districts, Affected Local Governments and Interest Groups Participating in Review:

<u>Agency/Interested Groups</u>	<u>Contact</u>	<u>Task #s</u>	<u>Submit Date to DLCD</u>
Dept. of Transportation (ODOT)	Erik East	3(c)	8/1/94 - 9/30/98
McMinnville Water and Light		3(a)	9/5/94 - 9/30/98 8/2/94 - 9/30/98

Please contact Brenda Cansler at (503) 373-0050, extension 236 if you have questions or need additional forms.

<j:\pr\city\mcminnvi>

Applicability of Goal 14 Amendments
And Related Goal Definitions
Adopted April 28, 2005

- (1) Goal 14 and related Statewide Goal Definitions, as amended on April 28, 2005, are applicable to the adoption or amendment of a comprehensive plan or land use regulation, or a land use decision made under a non-acknowledged comprehensive plan or land use regulation, on and after April 28, 2006, except as follows:
 - (a) Local governments are authorized, at their option, to apply the goal and related definitions as amended on April 28, 2005, to amendments to a comprehensive plan or land use regulation, or a land use decision made under a non-acknowledged comprehensive plan or land use regulation, on or after June 28, 2005.
 - (b) Local governments that initiated an evaluation of the Urban Growth Boundary (UGB) land supply prior to April 28, 2005, and consider an amendment of the UGB based on that evaluation, are authorized, at their option, to apply Goal 14 and related definitions as they existed prior to April 28, 2005, to the adoption of such UGB amendment, regardless of the adoption date of such amendment.
- (2) For purposes of section (1)(b), above, "initiated" means that prior to April 28, 2005, the local government either:
 - a) Issued a public notice of a proposed plan amendment for the purpose of evaluation of the UGB land supply and, if necessary based on that evaluation, amendment of the UGB, or
 - b) Received Land Conservation and Development Commission approval of a periodic review work task for the purpose of evaluation of the UGB land supply and, if necessary, amendment of the UGB.



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Main/Coastal Fax: (503) 378-6033

Director's/Rural Fax: (503) 378-5518

TGM/Urban Fax: (503) 378-2687

Web Address: <http://www.lcd.state.or.us>

December 6, 2004

RECEIVED
DEC 07 2004



Edward Gormley, Mayor
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

Post-It* Fax Note. 7671		Date	# of pages
To	From		
Co./Dept.	Co.		
Phone #	Phone #		
Fax #	Fax #		

Handwritten: Sid, Mary, Kyle

RE: LCDC Partial Approval and Remand of Periodic Review Task 1 and Urban growth Boundary Expansion (Order 001645)

Dear Mayor Gormley:

The Land Conservation and Development Commission has partially approved the City of McMinnville's submittal for periodic review Task 1, regarding Goal 9 compliance for commercial lands, and an urban growth boundary expansion. The portions of the submittal not approved are remanded, as explained in the enclosed order implementing the decision.

Judicial review of this order may be obtained by filing a petition for review within 60 days from the service of this final order, pursuant to ORS 183.482 and 197.650.

We appreciate the efforts of the City of McMinnville in completing the periodic review task. If you have questions regarding this order, please contact Geoff Crook, DLCD Regional Representative, at (503) 373-0050, extension 289.

Yours truly,

Rob Hallyburton

Rob Hallyburton
Community Services Division Manager

Enclosure: Order 04-WKTASK-001646

- c:
- Doug Montgomery, Planning Director
 - Mary Kyle McCurdy, 1000 Friends of Oregon
 - Leon Laptook, Community Development Law Center
 - Mark Davis
 - Larry French, DLCD Periodic Review Specialist
 - Jim Hinman, DLCD Urban Planning Specialist (email)
 - Geoff Crook, DLCD Regional Representative (email)
 - State Periodic Review Assistance Team (email)

**BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON**

**IN THE MATTER OF PERIODIC REVIEW)
TASK 1 AND THE AMENDMENT OF)
THE URBAN GROWTH BOUNDARY)
FOR THE CITY OF McMinnville)**

**PARTIAL APPROVAL
AND REMAND ORDER
04-WKTASK-001646**

This matter came before the Land Conservation and Development Commission (Commission) on April 22 and September 10, 2004 as a referral of a completed periodic review work task and an urban growth boundary (UGB) amendment. The City of McMinnville (city) submitted Task 1 "Inventory of Commercial Lands" of its approved work program to the Department of Land Conservation and Development (department) for review pursuant to ORS 197.633 and OAR chapter 660, division 025. The city also submitted the amendment of its UGB to the department for review pursuant to ORS 197.626 and OAR 660-025-0175. The director of the department referred the submittals to the Commission for action and final order. The Commission, having fully considered the written record as described in Appendix A, including the city's Task 1 and UGB amendment submittal, and the oral presentations of the parties, city, and department, now enters the following findings, conclusion, and order:

Findings

1. On August 26, 1994, the department approved the City of McMinnville's periodic review work program. Task 1 is to prepare an "Inventory of Commercial Lands."
2. On October 17, 2003, the department received the city's Periodic Review Task 1 "Inventory of Commercial Lands" submittal and Notice of Adoption of ordinances that amend its UGB.
3. On October 20, 2003, the city provided notice of the ordinance adoptions and work task submittal to interested parties as required by OAR 660-025-0140(1).
4. On and before November 10, 2003, the department received timely objections to the city's submittal from 1000 Friends of Oregon, Friends of Yamhill County, and Larry Rucker (1000 Friends), Mark Davis, and the Community Development Law Center.
5. On February 16, 2004, the department referred the city's submittals to the Commission pursuant to OAR 660-025-0150(1)(c). Subsequently, the director prepared a report to the Commission on the referral (director's report) pursuant to OAR 660-025-0150(5).

6. On March 30, 2004, the department provided a copy of the director's report to the city, the objectors, and persons who requested a copy of the report.
7. On or before April 9, 2004, the department received valid, written exceptions to the director's report from 1000 Friends, Mark Davis, the Community Development Law Center, and the city.
8. On April 20, 2004, the director issued a response to the exceptions pursuant to OAR 660-025-0160(3).
9. On April 22, 2004, the Commission held a public hearing on the referral. The Commission, on its own motion, decided to accept oral argument from the parties.
10. Commissioner Wornix disclosed that, formerly, as a practicing realtor in McMinnville, she had participated in many real estate transactions in the city, but that she currently has no financial interest in any property that is now before the Commission. Also, she stated that she could consider this matter impartially. No other commissioner had anything to disclose at either the April or September Commission meetings.
11. Prior to his confirmation as a commissioner by the State Senate, Commissioner Jenkins attended the April 22, 2004 public hearing, and he participated as a commissioner at the September hearing. All parties were notified of Commissioner Jenkins' participation, and none objected.
12. On April 22, 2004, the Commission voted to accept the following documents as new information, pursuant to OAR 660-025-0160(7). The city and the objectors were each provided a copy of these documents prior to the April 22, 2004 hearing and were afforded an opportunity to review and respond to them at either the April 22 or September 10, 2004 hearings. These documents were:
 - *Understanding Density and Floor Area Ratio*, City of Boulder, Colorado.
 - *Planning & Design for Transit*, Tri-Met.
 - *The Next American Metropolis*, Peter Calthorpe.
13. The Commission heard oral argument from the city and objectors at the April 22, 2004 meeting and continued the hearing to September 10, 2004. Pursuant to ORS 197.633(3)(b)(B) and OAR 660-025-0160(6), the Commission found that this referral raised new or complex issues of fact or law that made it unreasonable for the commission to give adequate consideration to the issues within the 90-day limit provided in ORS 197.633(3)(a) and OAR 660-025-0160(1).

14. At the September 10, 2004 hearing, the Commission approved a motion to accept as new evidence or information an August 6, 2004 letter and attachments from the director, and written summaries and motions from the city, 1000 Friends of Oregon, and Mark Davis.

Discussion

1. The adopted population forecast is supported by an adequate factual base and complies with the statewide planning goals. The future rates of growth are reasonable compared with past rates of growth for the city. The assumption of an increasing city share of Yamhill County's population and a small decline in the total population of the unincorporated portion of the county over the twenty-year planning period is supported by (1) a letter from the county and (2) evidence from Portland State University Center for Population Research that the unincorporated county population has decreased in several recent years. The city adequately coordinated with affected local governments and satisfied the requirements of Goal 2, ORS 195.025 and ORS 195.036.
2. The city's use of a projected 2.54 persons per household, from the year 1990 Census, to forecast future household size complies with the statewide planning goals. The city established an adequate factual base from which it could reasonably conclude that the persons per household will decline from the year 2000 Census number. The city projected the decline based on consideration of information that members of the "baby boom" generation are starting to reach retirement age and becoming "empty nesters." Also, based on the city's housing needs analysis, a greater percentage of multiple family housing was planned. Because multiple family housing has fewer persons per household than single-family housing, the city projects that the persons per household will decline.
3. The city's housing needs analysis does not conflict with the statewide planning goals by not accounting for redevelopment in the "R-2" zoning district. The R-2 zone allows primarily single-family dwellings. If a single-family dwelling in the R-2 zone is demolished, the city anticipates that a new single-family dwelling will be constructed, resulting in no net increase in the number of dwelling units. The city inventoried the undeveloped portions of large single-family lots as "vacant land." Such vacant land presents a redevelopment opportunity. The city did not fail to comply with the statewide planning goals by accounting for such areas as "vacant land" rather than redevelopment. The city planning director testified that additional land had been planned for multiple family developments in the new "R-5" zone, and that future multiple family developments, such as planned unit developments, are not

anticipated in the "R-2" zone. Also, the city has increased the planned density of each needed housing type, and that the reduction in planned density in the "R-2" zone resulted in a

4. [REDACTED] housing types to other zones, including the new "R-5" zone. [REDACTED] has adequately addressed the need for [REDACTED] worker housing as required by ORS 197.296, [REDACTED] planned for a sufficient number of needed [REDACTED] price ranges and rent levels to meet its identified [REDACTED] need for government assisted housing and for [REDACTED] need for different housing types. The [REDACTED] whether the city had established that its submittal [REDACTED] in this instance and did not deter [REDACTED] whether as [REDACTED] for government assisted housing and for farmworker [REDACTED] types (such as multiple family housing) is preferable to distinguishing these housing types by the method of financing rather than the type of structure.

5. The city agreed to a remand of its economic opportunities analysis to address an identified internal inconsistency concerning "floor area ratios" that do not provide an adequate factual base as required by Goal 2.
6. The Commission heard testimony that the city could accommodate a greater portion of its identified need for parks on land within the 100-year floodplain or on facilities shared with the school district or Linfield College, rather than on buildable lands. The Commission remands this issue in order to afford the city the opportunity to accommodate its identified need for parks in a different manner than in this submittal, not because the Commission has determined that the city's submittal does not comply with the statewide planning goals. Because this issue is remanded on that basis, the Commission specifically does not reach the issue of whether the submittal complies with the statewide planning goals.
7. The Commission remands for further consideration the portions of the "Grandhaven," "Norton Lane" and "Three Mile Lane" UGB expansion areas that lie within the 100-year flood plain in light of the Oregon Court of Appeals' recent decision in *Milne v. City of Canby*, 195 Or App 1, 96 P3d 1267 (2004).
8. Inclusion of the following areas in the UGB for urbanization complies with the statewide planning goals: "Riverside South," Fox Ridge Road" and "Redmond Hill." No objections or

exceptions to these areas were submitted. The "Lawson Lane" area has a high priority for urbanization under ORS 197.298 but should not be considered separately from the "Three Mile Lane" area because of locational considerations.

9. The city has demonstrated that the rezoning of several parcels is in compliance with the statewide planning goals. These parcels would not significantly affect a transportation facility under OAR 660-012-0060 because they are small in size or are already developed for a use equivalent to uses allowed in the new zone. These parcels are numbers 7, 9, 10, 15, 16, 19 and 20 in the McMinnville Growth Management and Urbanization Plan, Figure 12 and Appendix F, Attachment 2.
10. ~~The Commission did not hear any argument on the remaining objections and exceptions or the department's recommendations on pages 31 and 32 of the April 20, 2004 staff report "Responses to Exceptions" and made no ultimate decision on these issues.~~

Conclusion

Based on the foregoing findings and discussion, the director's report, and responses to the objections and exceptions, the Commission partially approves the city's Task 1 and UGB amendment submittal, pursuant to OAR 660-025-0150 and 660-025-0160, as listed in the Order below.

Those portions not explicitly approved shall be remanded for re-submittal by the date specified below.

Order

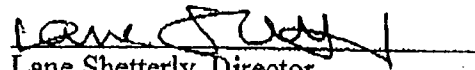
THEREFORE, IT IS ORDERED THAT:

1. The city's UGB amendment is partially approved for inclusion of the following areas described in the McMinnville Growth Management and Urbanization Plan, Figure 4:
- a) Riverside South;
 - b) Fox Ridge Road; and
 - c) Redmond Hill.
2. The following rezonings in the McMinnville Growth Management and Urbanization Plan, Figure 12 and Appendix F, Attachment 2 are approved:
- a) 7 - Tax lot R4429AD07100;
 - b) 9 - Tax lot R4422CC00100;
 - c) 10 - Tax lot R4424C00100;
 - d) 15 - Tax lot R4423 00800;
 - e) 16 - Tax lot R4423 00600;
 - f) 19 - Tax lot R4421BA7700; and
 - g) 20 - Tax lot R4421BA7600.

3. The McMinnville Residential Land Needs Analysis, adopted May 22, 2001, is approved, except for references to the need for parkland on pages 5-31 through 5-33, Table 5-34, Table 6-3, and as referenced elsewhere in that document.
4. Periodic Review Task 1 and all other issues are remanded to allow the city the opportunity to consider, coordinate and make the task consistent. To the extent that the Commission did not specifically address objections received by sustaining or rejecting them, the city has the opportunity to consider those on remand but is not required to make any specific changes. Parties may renew such objections on resubmittal of this work task.
5. The city shall resubmit Task 1 and the UGB amendment within one year of this date, or within one year of the date that the State Court Administrator issues an appellate judgment on judicial review of this order.

DATED THIS 3rd DAY OF DECEMBER 2004.

FOR THE COMMISSION:


Lane Shetterly, Director
Oregon Department of Land
Conservation and Development

NOTE: You may be entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provision of ORS 183.482 and 197.650.

Copies of all documents referenced in this order are available for review at the department's office in Salem.

J:\PRA LARGE\CITY\MCMINNVILLE\T1 & UGB Final Order.DOC

Appendix A

Record on Review

Pursuant to OAR 660-025-0170(7), the Commission hears referrals on the written record and any new evidence or information the Commission accepts. For this matter, the written record before the Commission is:

Work Task 1 submittal:

- City Ordinance No. 4795.
- McMinnville Economic Opportunities Analysis (November 2001).

UGB Amendment submittal:

- ~~City Ordinance No. 4796;~~
- Yamhill County Ordinance No. 730;
- McMinnville Growth Management and Urbanization Plan (May 2003);
- McMinnville Growth Management and Urbanization Plan Findings (October 2003);
- McMinnville Growth Management and Urbanization Plan Appendices (May 2003);
- McMinnville Residential Lands Needs Analysis (May 2001).

Objections:

- 1000 Friends of Oregon, Friends of Yamhill County, and Larry Rucker dated November 10, 2003;
- Community Development Law Center (CDLC) dated November 4, 2003;
- Mark Davis dated November 5, 2003.

Department staff report

- Referral of the City of McMinnville's Periodic Review Task 1 and UGB Amendment dated March 30, 2004, including attachments A-M.

Exceptions:

- 1000 Friends of Oregon, Friends of Yamhill County, and Larry Rucker dated April 8, 2004;
- Community Development Law Center (CDLC) dated April 8, 2004;
- Mark Davis dated April 7, 2004;
- City dated April 9, 2004;

Department Response to Exceptions

- Referral of the City of McMinnville's Periodic Review Task 1 and UGB Amendment Response to Exception dated April 20, 2004, including attachments A and B.

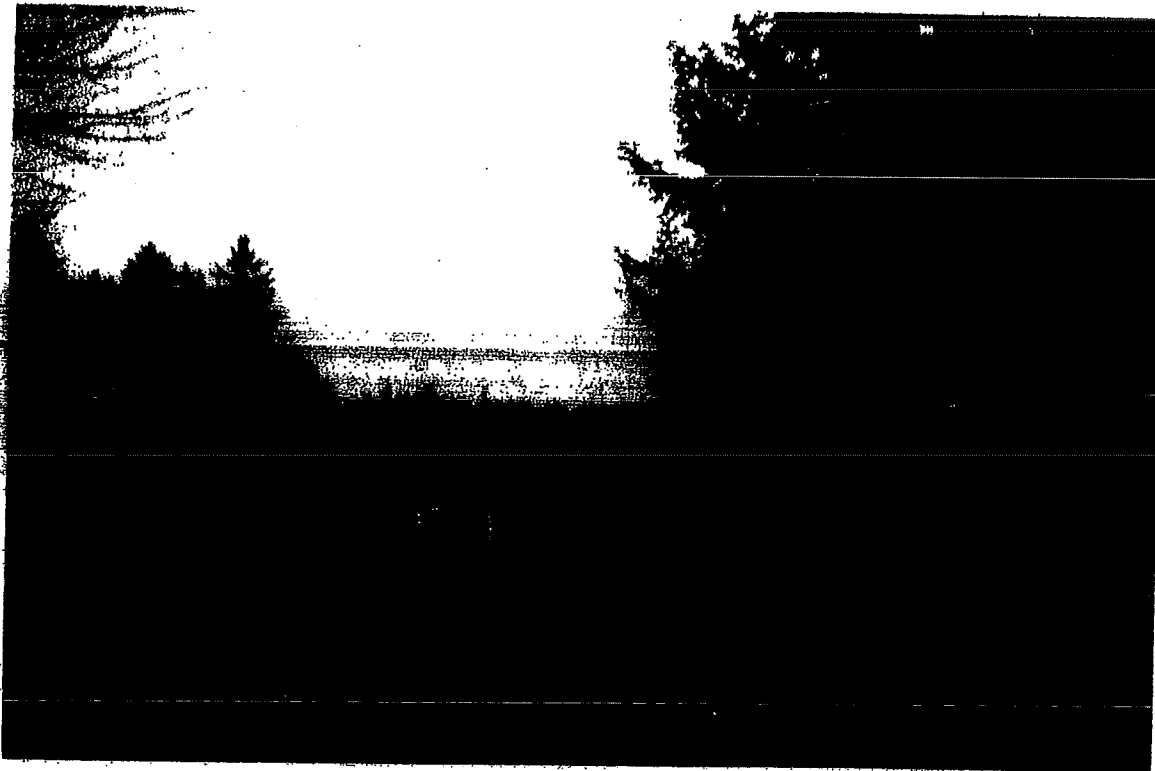
New Information accepted by Commission on April 22, 2004:

- *Understanding Density and Floor Area Ratio*, City of Boulder, Colorado; (Attachment G to Department's March 30, 2004 staff report).
- *Planning & Design for Transit*, Tri-Met (March 1993); (Attachment H to Department's March 30, 2004 staff report).
- *The Next American Metropolis*, Peter Calthorpe; (Attachment I to Department's March 30, 2004 staff report).

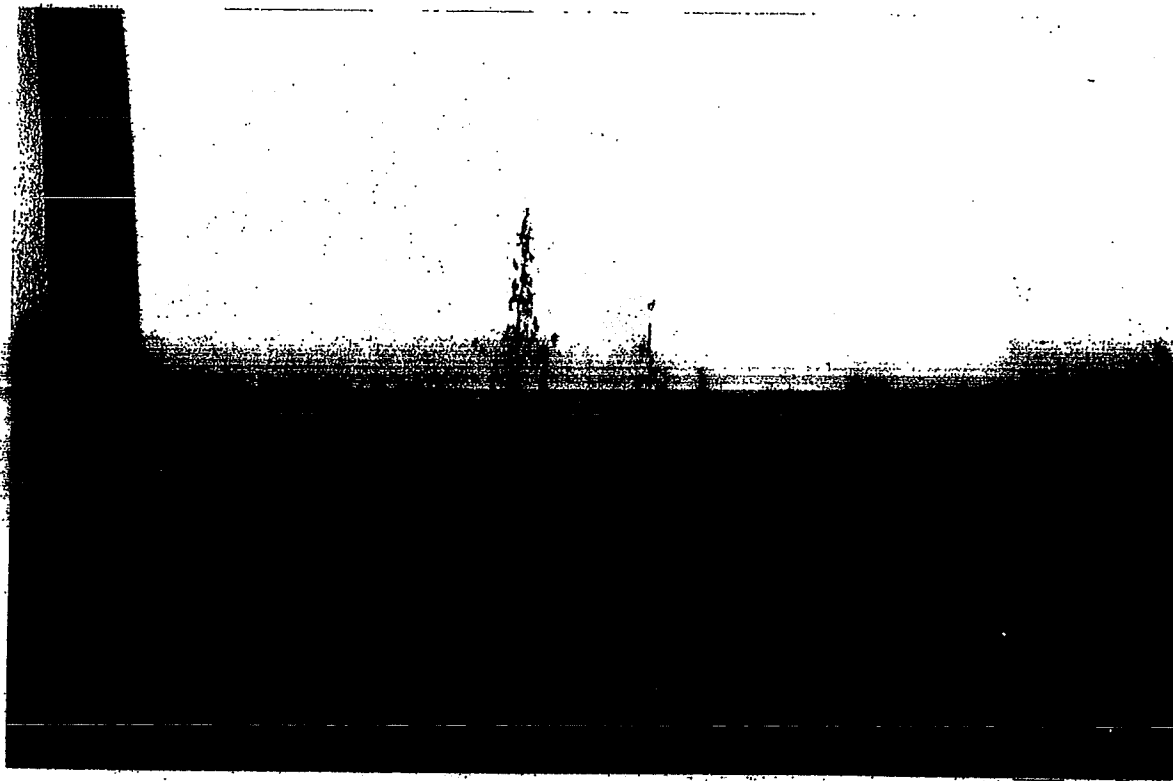
New Information accepted by Commission on September 10, 2004:

- August 6, 2004 letter from director to parties; and attachments:
 1. A copy of the minutes of Agenda Item 7c of the April 22, 2004 Commission hearing;
 2. Verbatim Transcript of discussion between Commissioner Henri and Mr. Ortiz from the April 23, 2004 LCDC meeting;
 3. 1000 Friends of Oregon letter to Steve Shipsey dated May 12, 2004;
 4. Department decision matrix.
- Written Summaries and Motions authorized by August 6, 2004 letter:
 1. 1000 Friends of Oregon, undated, date stamped September 7, 2004 by DLCD;
 2. Mark Davis dated September 3, 2004;
 3. City dated September 3, 2004.
 4. City letter dated September 3, 2004, objecting to procedure for September 10, 2004 Commission meeting, including response to "1000 Friends Letter of May 12, 2004."
 5. 1000 Friends of Oregon response to city letter, dated September 9, 2004.

New Soccer and Ball Fields on recent Floodplain additions to Joe Dancer Park



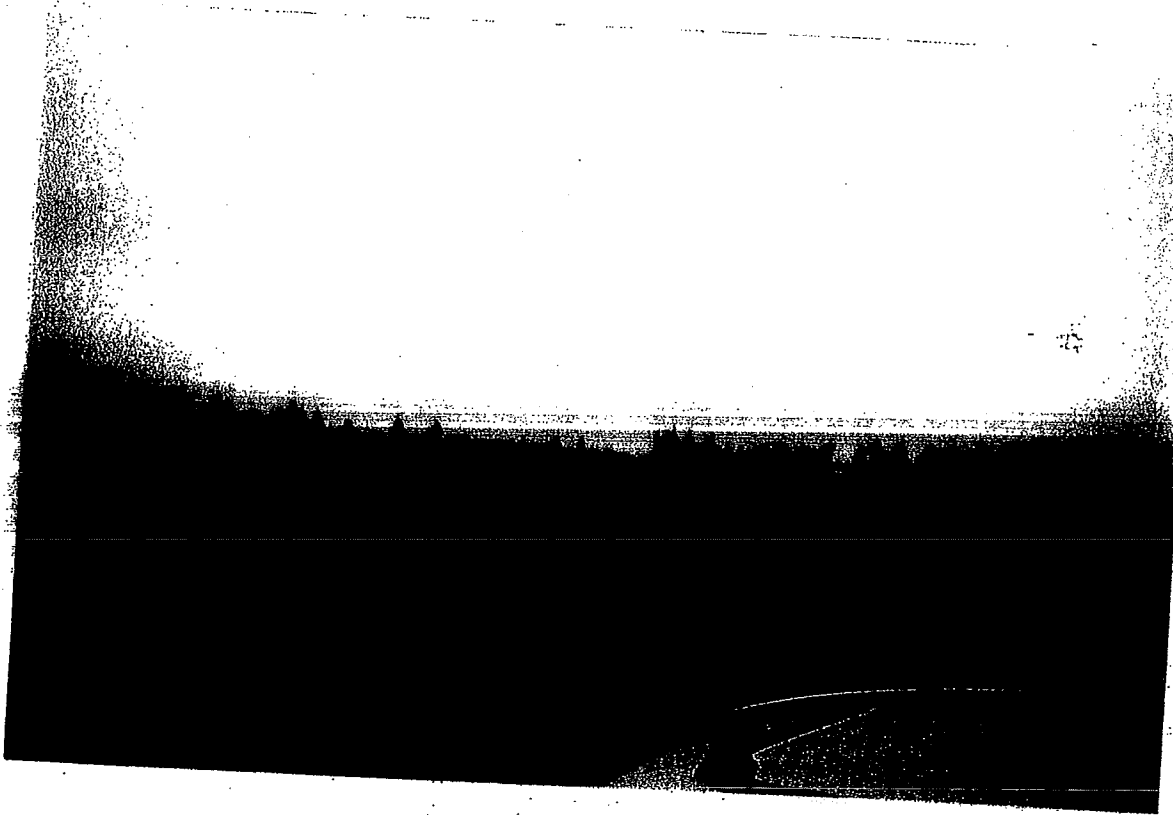
Riverside South looking SW from corner of Riverside Drive and Riverside Loop



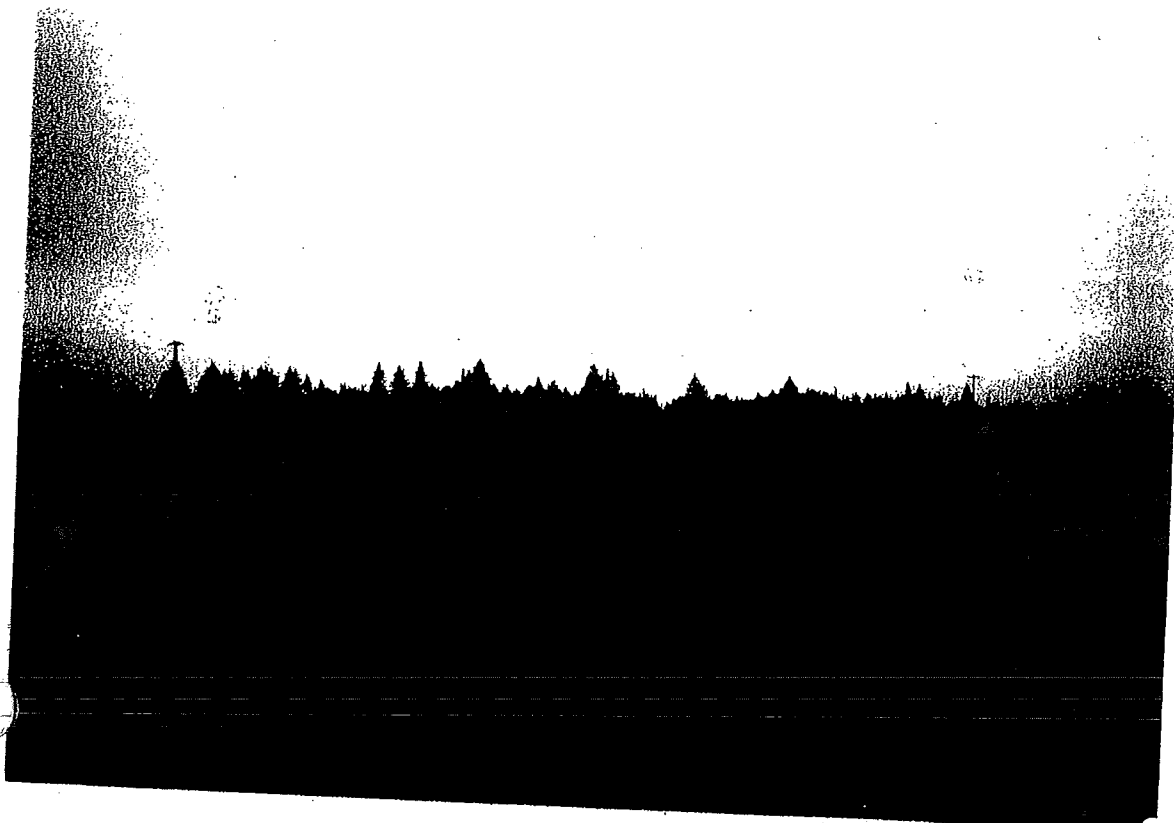
Riverside Drive Area looking N along Walnut, just north of Riverside Dr.



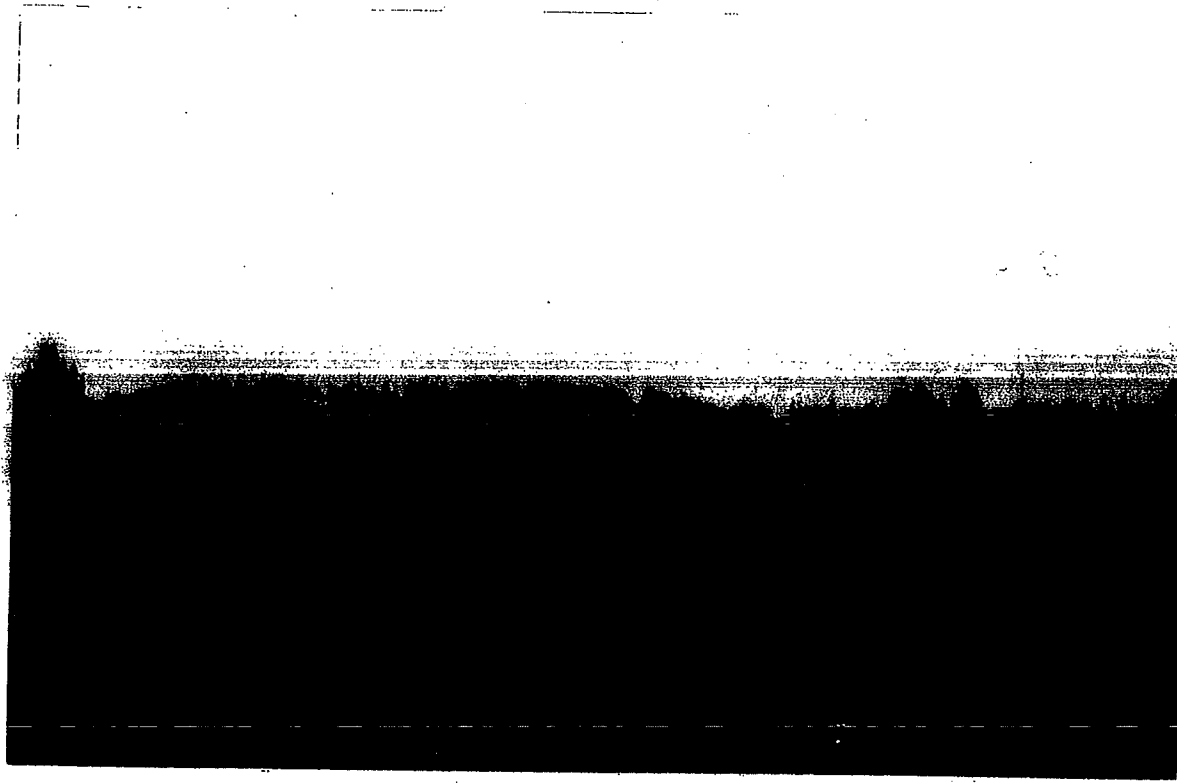
Riverside South looking east from N. end of Walnut across TL 2100 and 2101



Riverside South area across Riverside Drive from TL ~~2100~~ 2101



Riverside South area east of Riverside Drive (looking S across from TL 2101)





Oregon

Theodore R. Kulongoski, Governor

Department of Agriculture
635 Capitol Street NE
Salem, OR 97301-2532

August 1, 2003



Doug Montgomery, Planning Director
City of McMinnville
230 E. 2nd Street
McMinnville, Oregon 97128

VIA FACSIMILE

Dear Mr. Montgomery:

The Oregon Department of Agriculture (ODA) has reviewed the proposal by the City of McMinnville to expand the city urban growth boundary (UGB). We understand that approximately 1,144 acres of the proposed expansion involves designated agricultural lands. We offer the following comments for your consideration.

Yamhill County Agriculture

Agriculture is an important element of the local economy. In 2002, farms in Yamhill County grossed \$206,987,000 in sales, ranking fifth in the state in total sales behind only Marion, Clackamas, Washington and Umatilla Counties. A great diversity of commodities is produced in the county including nursery crops, grass and legume seeds, tree fruit and nuts, wine grapes, vegetables, dairy products and numerous others. The county is the state leader in the production of wine grapes and hazelnuts and is among the leaders in the production of nursery crops, cane berries, various vegetables and milk.

Exception Lands

Should a need be demonstrated for an UGB plan amendment, state law requires that any expansion must occur in the order established in ORS 197.298(1). The statute establishes the following priority governing land to be added to an UGB:

1. Lands within urban reserves that are in exception areas;
2. Lands adjacent to the UGB, but not in an urban reserve area, that are either in exception areas or are resource lands that are completely surrounded by exception areas;
3. Lands designated marginal land (which exist only in Washington and Lane Counties); and lastly
4. Lands acknowledged for agriculture or forestry.

Our review indicates that there are five exception areas located adjacent to the current UGB that are not included in the proposed expansion. The plan concludes that these exception areas cannot reasonably accommodate identified land needs and thus are not recommended for inclusion. Many of the specific stated reasons for this conclusion seem contradictory to recommendations to include other areas. For example, the first reason listed for excluding Bunn's Village is the separation of this area from the urban area by the Yamhill River. We note that there are areas located within the existing UGB in the southeastern part of the city that are separated from the rest of the urban area by the river. Another example is the Booth Bend Road area. One of the reasons given for excluding this area is the fact that the area is "physically isolated from the McMinnville urban area by Oregon Highway 18." However, the plan later on recommends that the resource lands contained in Three Mile Lane area be included. We note that Highway 18 also separates the Three Mile Lane area from the urban area.

The plan also remarks that there are exception areas that are partially developed and are too parcelized for inclusion. For example, in the case of the Westside Road area, the plan remarks that the area yields but 13.9 acres of partially vacant land. Partial development should not preclude the inclusion of this or similar areas in the urban area. The inclusion of the undeveloped or underdeveloped portions of such areas would preclude the inclusion of similar acreages of resource lands.

Resource Lands

Lands designated as agricultural land or forestland may be added to the UGB only after all higher priority land has been added to the UGB or has been found to be inadequate to accommodate an identified need. If resource land is added to the UGB, the city must show that higher priority was given to lands of lower resource capability that are available to meet the need and applicable reasons for the amendment [ORS 197.298(2)]. Statewide Planning Goal 14, Factor 6 requires a review of soils for possible inclusion based on the highest priority for retention as agricultural land to Class I soils and the lowest priority to Class VI soils. Furthermore, a UGB land priority analysis needs to be coordinated around the perimeter of the entire UGB.

We have found no such priority analysis in the proposed plan amendments. The plan does not provide an analysis of which of the agricultural soils located around the entire perimeter of the UGB are less suited as agricultural land as defined by Goal 3 nor does it address the hierarchy of soils. While most of the soils in the area are productive, some are less productive than others and some require more management than others. The vast majority of the soils contained within five resource land areas proposed for inclusion within the UGB are classified by the USDA Natural Resources Conservation Service (NRCS) as Class I and II agricultural soils. Most are also designated as prime farmland by the NRCS. We note that lands located directly to the west of the current UGB and directly north of Fox Ridge Road and south of Redmond Hill Road contain poorer soils classified as Class III or poorer agricultural soils. Little of these soils are designated as prime farmland.

Finally. Goal 14, Factor 7 requires consideration of the compatibility of the proposed urban uses (within the new urban areas) with nearby agricultural activities. We found little if any analysis that addresses this requirement. Farm use and associated agricultural practices such as spraying, plowing, harvesting and movement of farm machinery on area roads commonly occur in the area.

Thank you for the opportunity to provide these comments. Please enter this letter into the record of this case.

Respectfully,



James W. Johnson
Land Use and Water Planning Coordinator
(503)986-4706

c: Jim Hinman, DLCD
Larry Ksionzyk, DLCD
Debbie Gorham

JWJ/pa



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District acquires southeast school site

Published: July 15, 2003

District acquires southeast school site

By STARLA POINTER

Of the News-Register

McMinnville School District has reached agreement with Linfield College on the purchase of 11.6 acres at Davis Street and Booth Bend Road as a future elementary school site.

"It was important to find a parcel on the southeast side of town," said board member Margie Taylor. She said the new site may eventually serve students who now attend Cook Elementary, the oldest grade school still in use.

The district has been negotiating with the college for several years in hopes of buying the property. The two sides finally came to terms this month.

The district will pay the college \$925,000. Nearly \$900,000 of that will come out of a school construction bond issue voters approved in 1997 and the rest out of the district's asset reserve fund.

Money from the bond issue also paid for an elementary property on Hill Road in west McMinnville, built Grandhaven Elementary and made badly needed improvements to school buildings in McMinnville and Lafayette.

David Horner, director of business services, said the agreement with Linfield calls for the college to take care of any environmental problems on the site. He expects some diesel contamination, as trucks traveling to and from an old asphalt plant next door once used the property as a parking area.

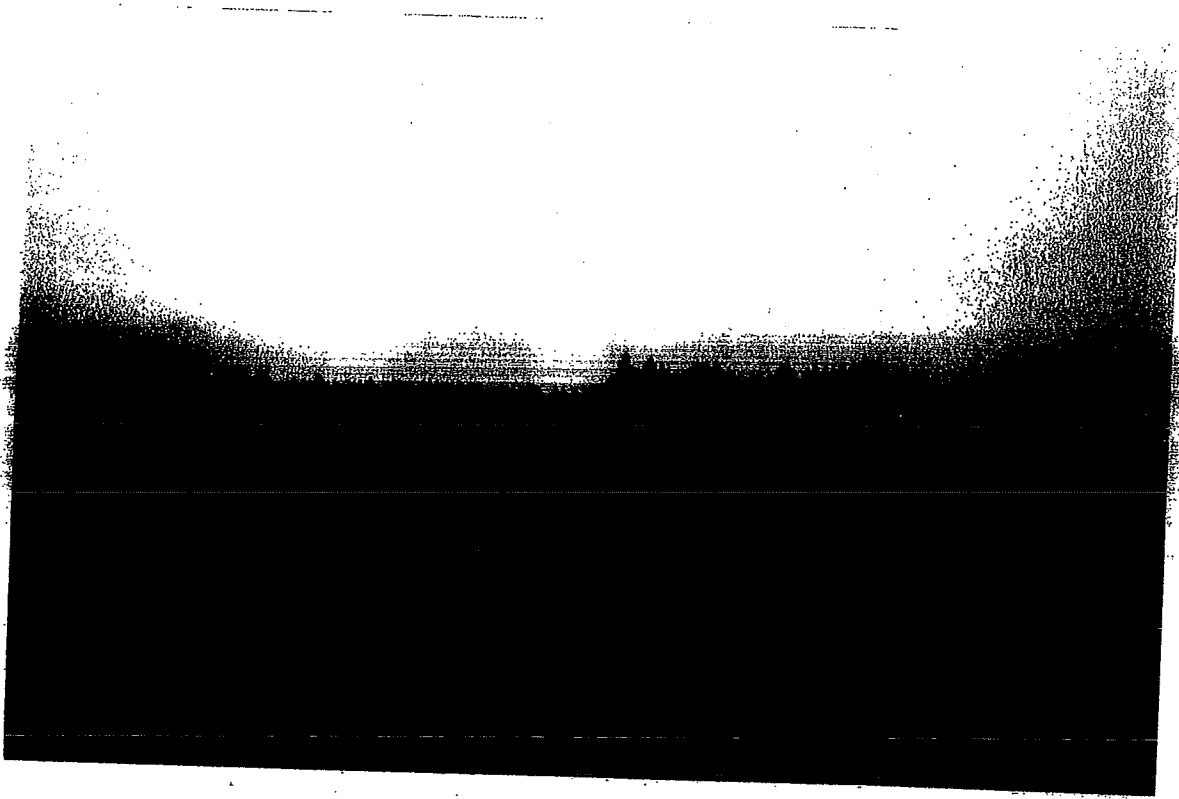
Horner said Linfield is selling the land with two contingencies - that its environmental cleanup expenses not exceed \$25,000 and that it find replacement property to buy. The college has until mid-November to complete the other land deal.



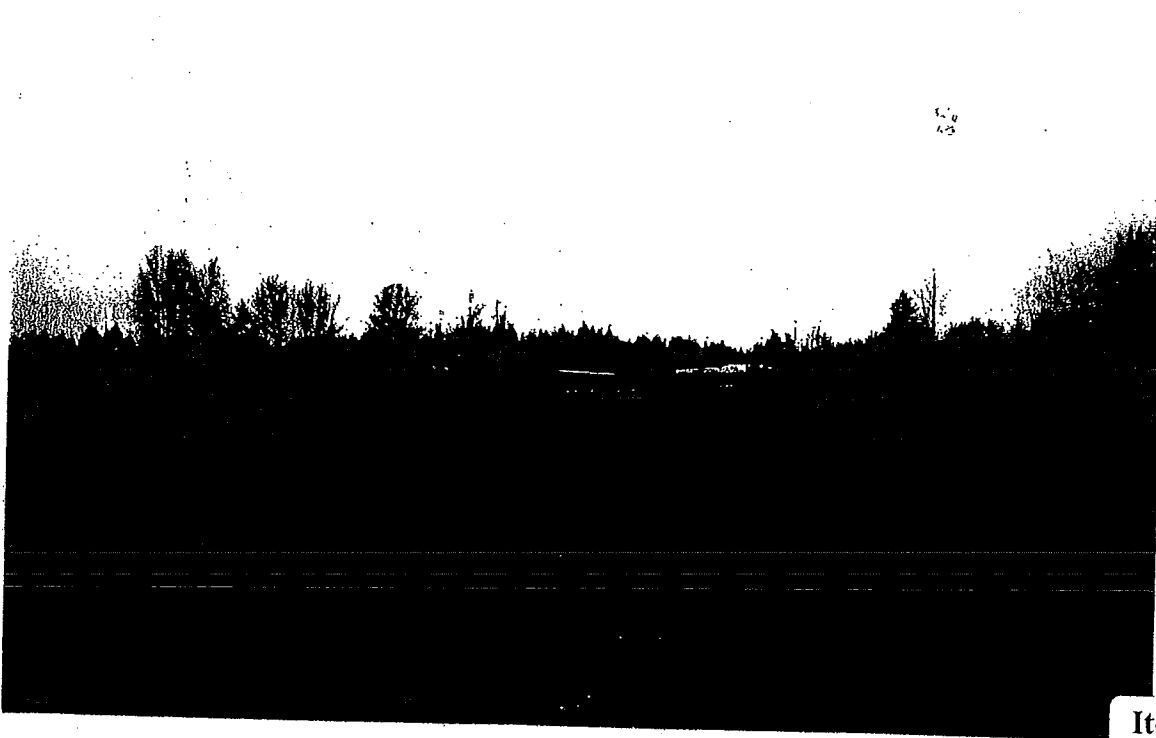
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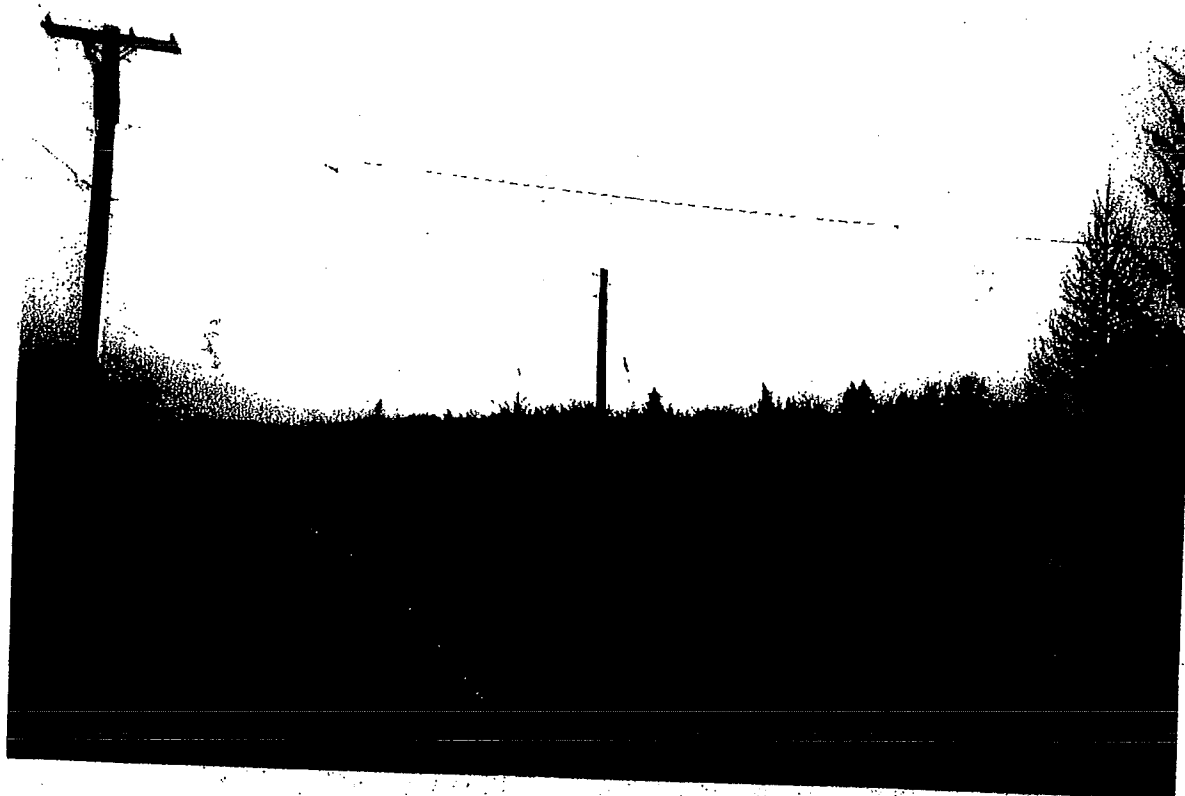
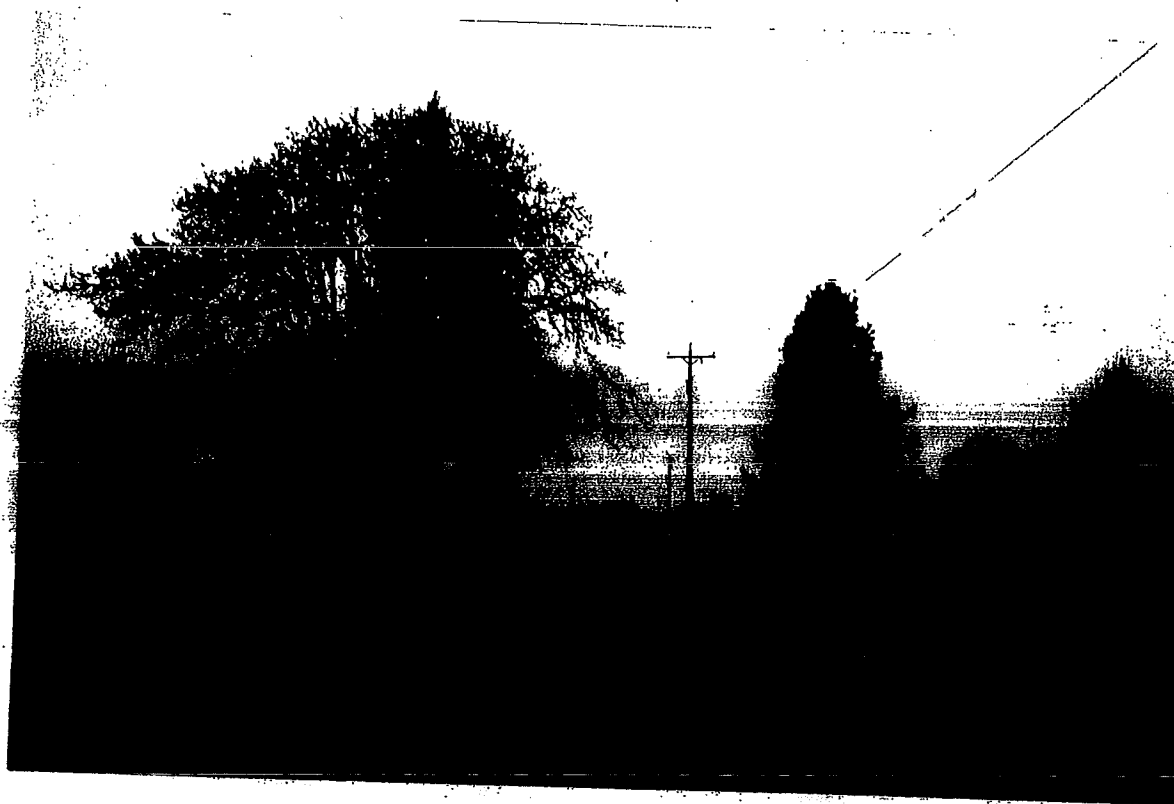
Bunn's Village Along Youngman Road



Bunn's Village Along Lone Oak Road



Bunn's Village Along Hawn Creek Road



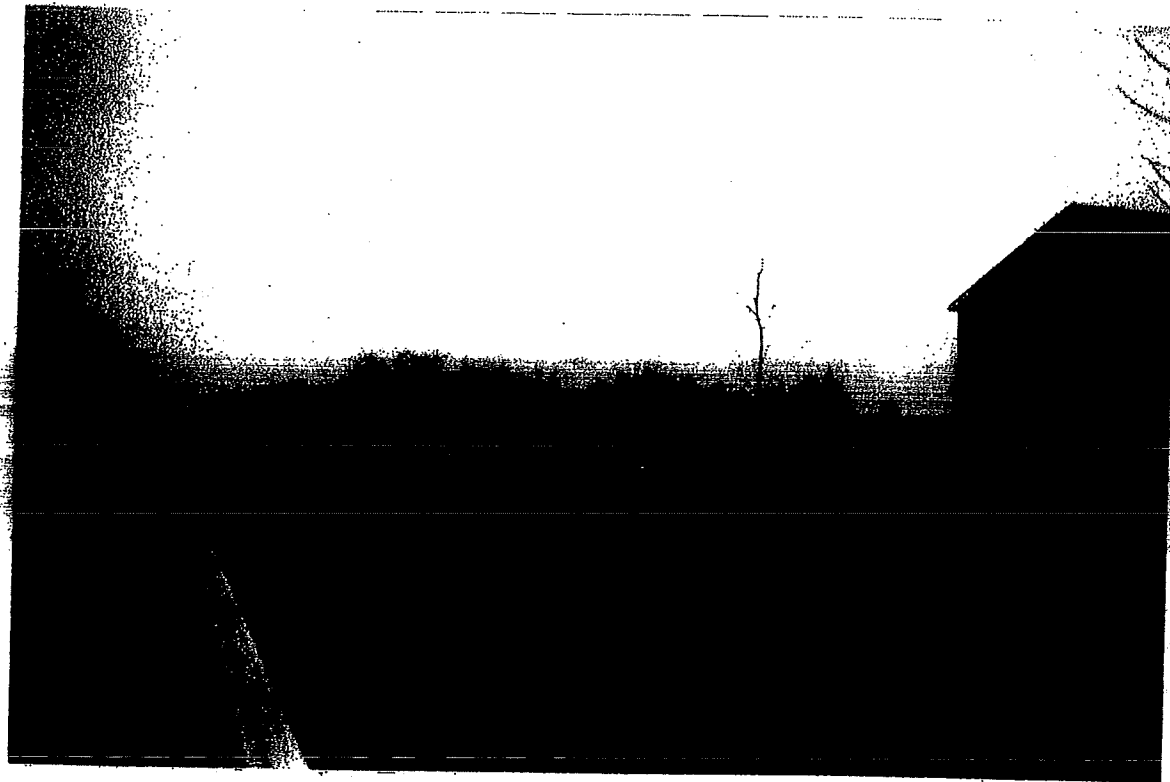
N Yamhill River Near Bunn's Village (Poverty Bend Bridge)



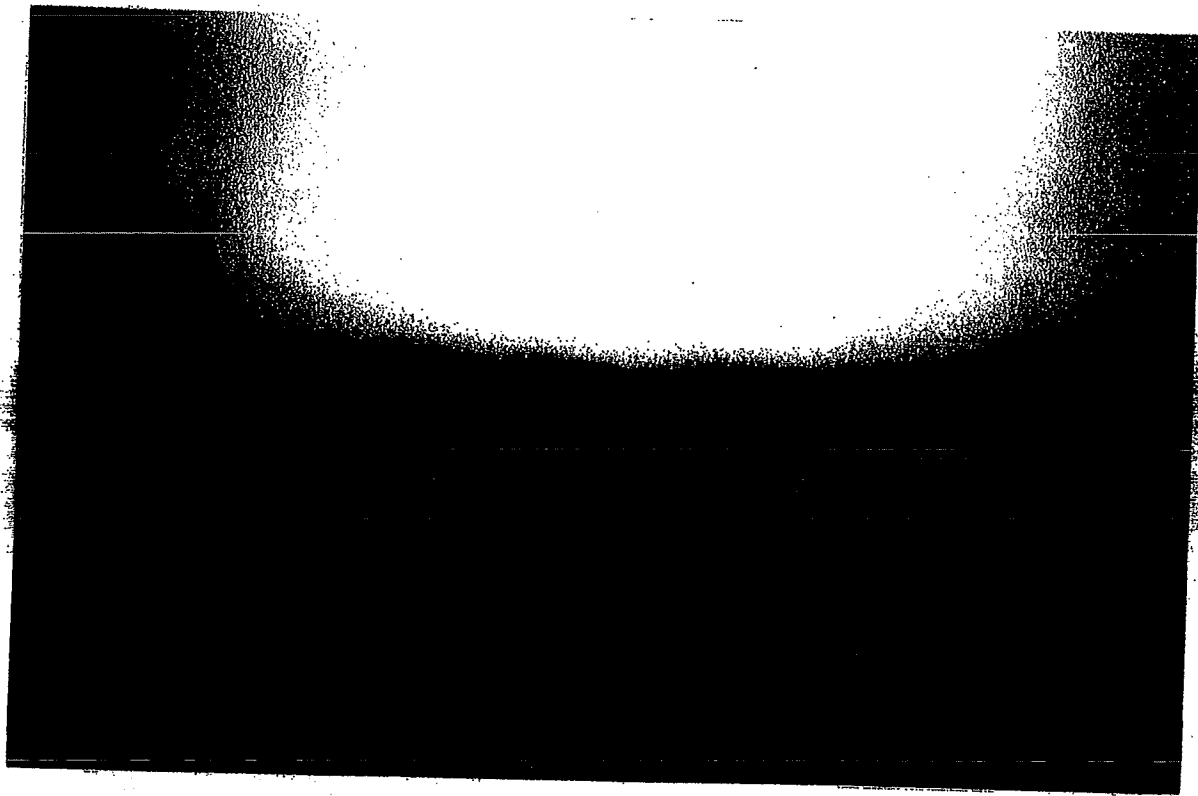
Vacant Buildable Land in Riverside North



Old Sheridan Road Area by Existing UGB



Old Sheridan Road Area looking back towards UGB from Church Driveway



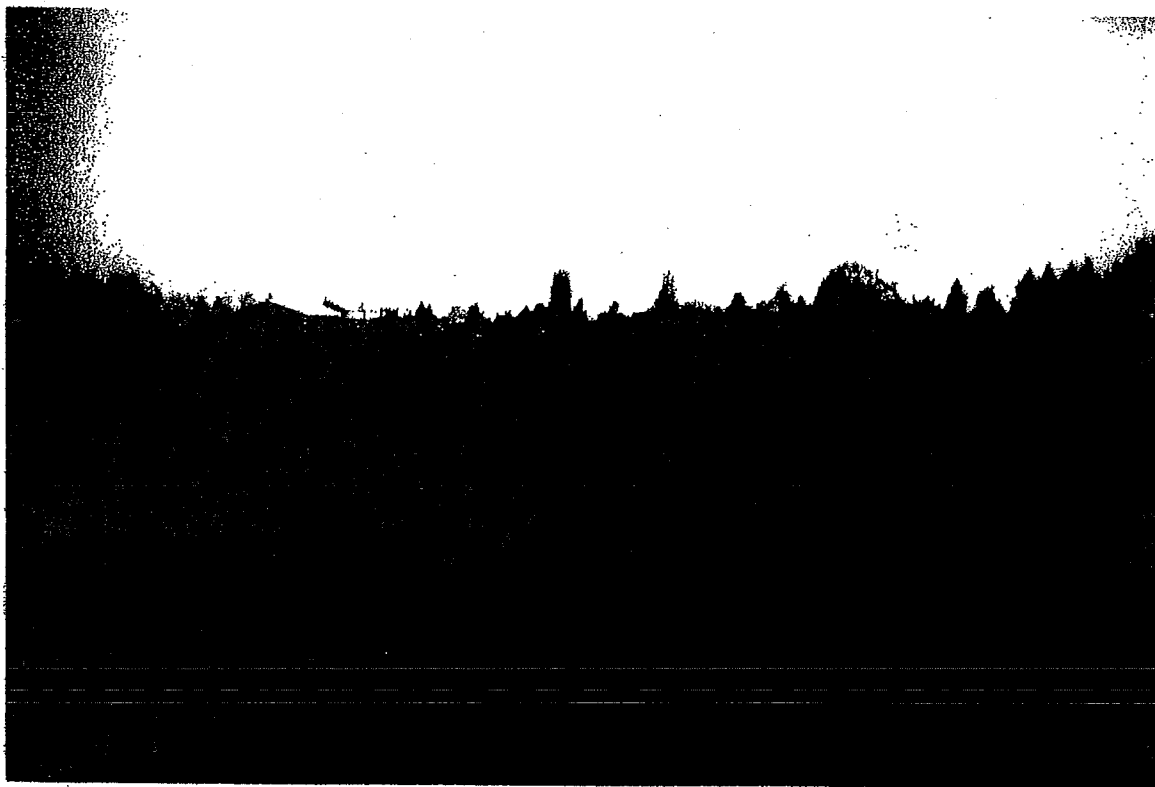
Stubbed Road from existing UGB to Old Sheridan Road Area



Booth Bend Road Area near new school site. Housing in UGB in background



Booth Bend Road Area from Morgan Lane

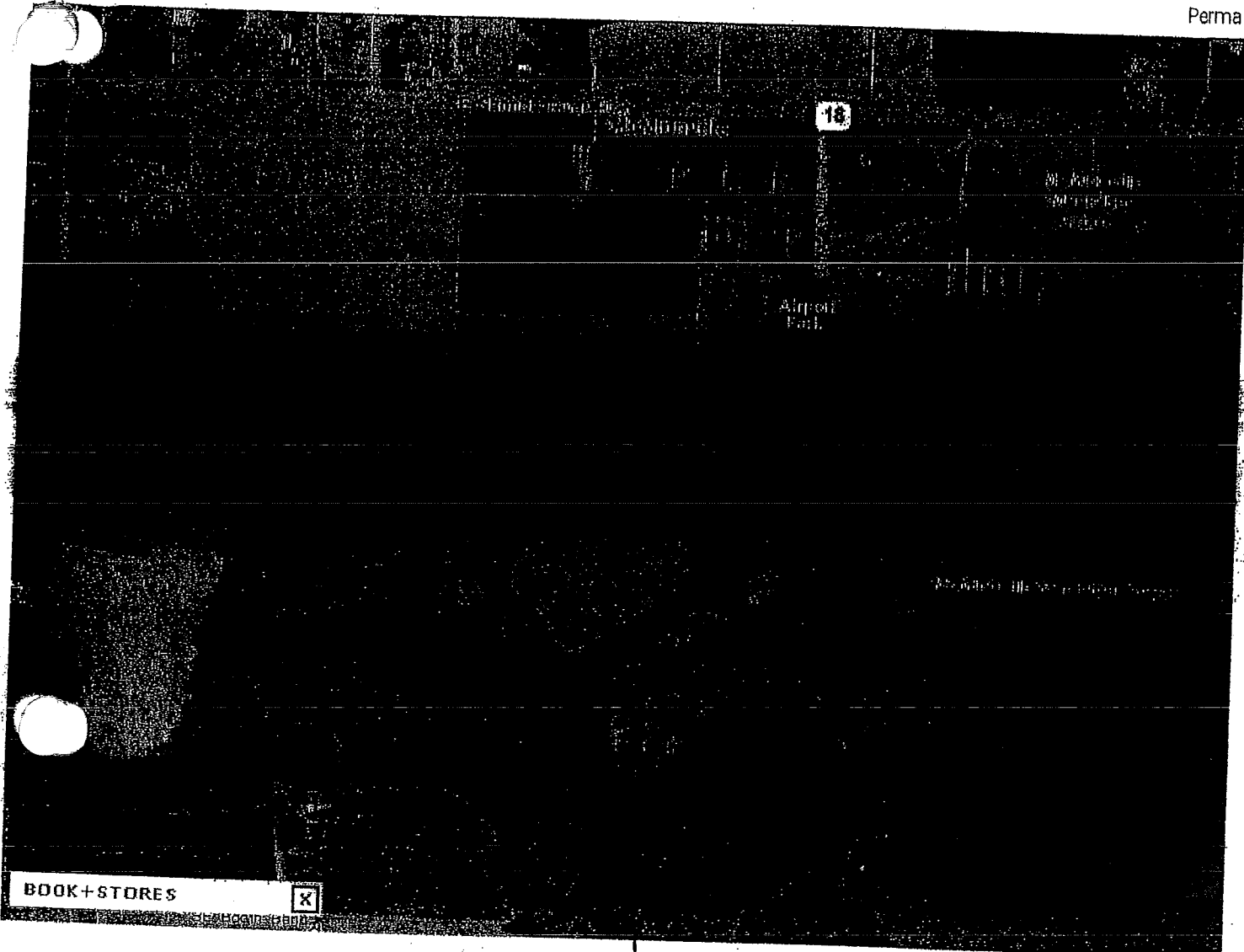


What (Business name or category) Where [Use current map view] (Address, city, or other place)

Road map Aerial photo

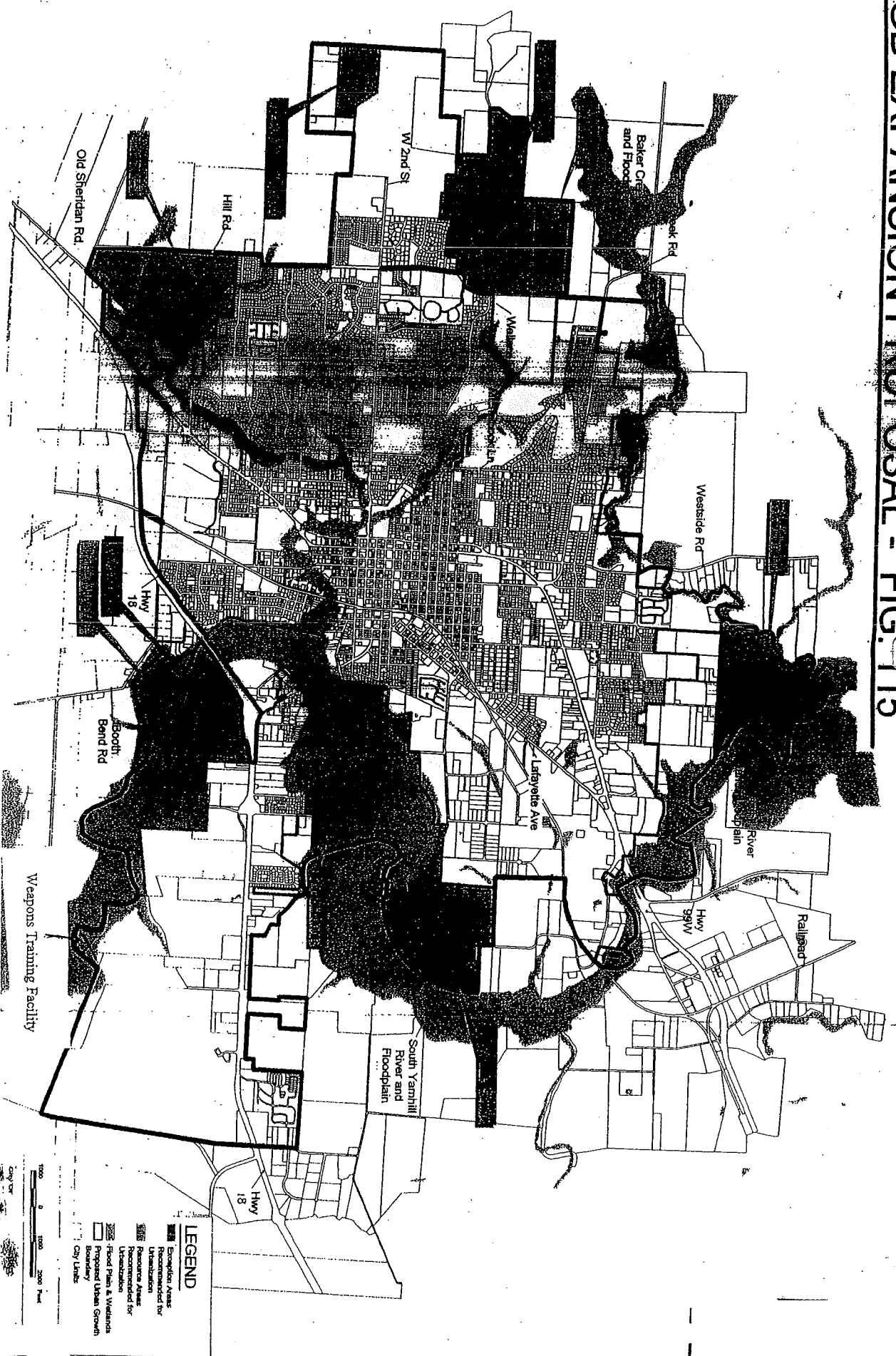
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Weapons Training Facility

UGB EXPANSION PROPOSAL - FIG. 115

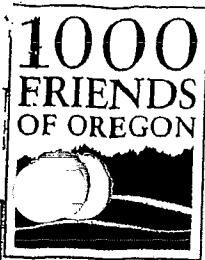


LEGEND

- Exception Areas
- Recommended for Urbanization
- Recommended for Agriculture
- Recommended for Forestland
- Flood Plain & Wetlands
- Proposed Urban Growth Boundary
- City Limits

0 1000 2000 Feet

Copy of 115



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Willamette Valley Office • 189 Liberty St. N.E., Ste 307A • Salem, OR 97301 • (503) 371-7261 • fax (503) 371-7596
Lane County Office • 1192 Lawrence • Eugene, OR 97401 • (541) 431-7059 • fax (541) 431-7078
Central Oregon Office • P.O. Box 1380 • Bend, OR 97709 • (541) 382-7557 • fax (541) 317-9129

May 24, 2005

McMinnville City Council
230 E. 2nd St.
McMinnville, OR 97128

Re: McMinnville Growth Management and Urbanization Plan

Dear Council members:

Thank you for providing us with notice of tonight's hearing on the proposed amendments to the McMinnville Growth Management and Urbanization Plan (MGMUP). We have reviewed the staff memorandum sent on May 3, 2005 and share the concerns expressed in the May 16th letter from the Department of Land Conservation and Development and the May 20th letter from Mark Davis. We also have the following additional comments. Please enter them in the official record of this proceeding and provide us with written notice of your decision.

The following comments address issues in the order they are listed in the staff memorandum.

Issue #1: Transit Corridor Enhancement Policies

We support the amendments proposed by staff to the plan policies 71.01, 71.13, and 90.00. They will help remove barriers to transit-supportive development patterns in proximity to planned transit-corridors. This comment responds to the language proposed on page 2 of the staff memorandum. We note that the language proposed for policy 71.01 on page 2 of the memorandum differs from the language proposed for Policy 71.01 on page 10 of the memorandum.

We do not support the staff recommendation to remove Table 75 from the MGMUP and Table 75 from the findings. These tables identify parcels that can be upzoned to allow more transit-supportive development. As noted in the staff report, as these parcels continue to be developed, opportunities for transit-supportive development are lost.

The text of the *MGMUP* and the City's findings put forth higher-density transit corridors as a key component of the plan. Staff notes that it has identified remaining parcels listed in the tables as well as other parcels within the wider corridor where rezoning would allow more transit-supportive development. The City should implement the plan as part of this process and upzone those properties it has identified. This action would be consistent with the DLCD recommendation to LCDC to:

"Rezone these parcels identified as suitable for medium-, and higher-density housing in order to implement the plan."

Issue #2: Residential Density Within NACs

The amendments proposed by staff to clarify density requirements within the Neighborhood Activity Centers (NACs) are a move in the right direction. According to the *MGMUP* the NAC's are intended to be compact, pedestrian-friendly, and transit-supportive. We continue to believe that densities within the NACs will need to be considerably higher than 7.5 dwelling units per *net* buildable acre for them to achieve their stated intention.

More realistic densities to achieve the stated goals of the NAC's can be found in the Transportation Planning Rule. Under OAR-660-012 (7)(b)(A)(i)

"(7) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:

* * *

(A) A concentration of a variety of land uses in a well-defined area, including the following:

- (i) **Medium to high density residential development (12 or more units per acre);**
- (ii) Offices or office buildings;
- (iii) Retail stores and services;
- (iv) Restaurants; and
- (v) Public open space or private open space which is available for public use, such as a park or plaza." (emphasis added)

Issue #3: Residential Density Definitions

McMinnville's plan and code language defines low density as < 4 dwelling units/net acre, medium density as 4-8 dwelling units/net acre and high density residential as anything > than 8 dwelling units/net acre. DLCD has recommended that McMinnville:

"Revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the city."

The staff proposes to eliminate the numerical ranges for medium and high-density housing from plan policies 71.10 and 71.11 but not revise the density considered to be medium and high density housing in formulating the plan and needed acreage. This does

not solve the underlying inconsistencies. If the staff recommendation is adopted Policy 71.09 and 71.11 will read as follows:

"71.09 Medium Density Residential (R-3 and R-4)- The majority of lands in McMinnville are planned to develop at medium density range consistent with the findings of its housing needs analysis. Medium density residential development uses include small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses."

"71.11 High Density Residential (R-5)- High Density residential housing includes townhouses, condominiums, and apartments, with the highest densities being in the downtown commercial core."

This is insufficient for the following reasons:

1) The majority of residential lands in McMinnville are actually planned to develop as R-1 and R-2, the lowest density residential zones in the city. According to Table 8 and Table 19 of the MGMUP, (p. B-10), the plan is based upon 1,053 acres of housing development in McMinnville between 2003 and 2023. Of these 1,053 acres, 669 acres- about 64%- are in the R-1 and R-2 zones. Only 313 acres- less than 30%- are in the R-3 and R-4 zones.

The MGMUP and the needed acreage should be revised consistent with this plan policy so that the majority of residential lands are planned to develop as R-3 and R-4, and a revised UGB expansion should be based upon such a plan. This will result in a considerably smaller UGB expansion.

2) Merely eliminating the reference to density in the plan policy does not change planned density within the R-3 and R-4 zones. The R-3 zone still has a minimum lot size of 6,000 square feet. The R-4 zone still has a minimum lot size of 5,000 square feet. As noted in DLCD's "Response to Exceptions":

"The issue, then, is whether lots ranging from 8,400 to 4,200 square feet are consistent with the medium-density housing products defined in Policy 71.09 (small lot single-family detached, single-family attached, duplexes, triplexes, and townhouses), and whether housing products typically located on lots that are up to but less than 4,200 square feet are consistent with high-density housing products as those are defined in Policy 71.11 (townhouses, condominiums, and apartments)."

As DLCD found in its "Response to Objections":

"A small lot in this vicinity can be considered to range from 4,500 to 6,000 square feet, which equates to approximately eight dwelling units per net acre.

Similarly, townhouses are commonly provided on lots ranging from 2,000 to 3,000 square feet. This equates to densities ranging from 14 to 22 dwelling units per net acre. Therefore, while the city's definition of medium-density development is stated to range from four to eight dwelling units per acre, the characteristic housing types listed are more commonly found to range from seven to 20 units per net acre. The plan is internally inconsistent."

Issue #4: Amendment of NAC Illustrative Plans

Because the individual Activity Center Illustrative Plans do not conform with the plan and code text that describes the NAC's they should be amended or deleted.

Issue #5: Rezoning of Certain Properties

We have no objection to the recommendation of staff that the listed properties be rezoned to their previous plan and zone designations.

We have previously raised a related issue. The City's regulations and zoning must implement the adopted plan. The MGMUP is based on specific residential rezonings that the City failed to adopt. The text of the MGMUP states:

"The proposed changes would change the R-1 zoning to R-2 on 204 acres of land... this measure will decrease residential land need by some 38 acres."¹

And:

"... to facilitate and promote higher density housing along potential transit routes in west McMinnville... Opportunities are shown as identified in Figure 3. In addition, the City proposes to take action to legislatively rezone certain vacant parcels..."

Finally, the City's findings list specific proposed transit corridor parcels proposed for upzoning.²

The City has not upzoned a single acre from R-1 to R-2, upzoned any of the listed transit corridor parcels, or upzoned a single parcel in west McMinnville.³ For this reason, we believe the regulations and zoning fail to implement the plan. The City should rezone those parcels identified as suitable for medium- and high-density housing *and from R-1 to R-2* in order to implement the plan.

¹ MGMUP, p. 5-19

² Findings, page 154

³ MGMUP, p-5-15, Table 7, and p. F-10, Attachment 2

Issue #6: Accessory Dwelling Units and Residential Density

We agree with staff that the language previously adopted by the City adequately addresses this issue.

Issue #7: Amendments to the C-1 (Neighborhood Business) Zone

We support the amendments proposed by staff.

Issue #8: R-5 Zone Design Standards

Rather than adopting clear and objective standards for design features on building exteriors in the R-5 zone, staff is recommending that such standards be deleted entirely.

We agree that the City is not legally required to adopt design standards. However, we believe community objectives would be better served by quantifiable objective criteria for breaking up facade design to give relief. For example, *no facade shall be continuous for more than 30 feet without a design element that provides depth relief such as a balcony, offset building facade, bay window etc...*

Issue #9: R-4 Zone Design Standards

We support the amendments proposed by staff.

Issue #10: West McMinnville Density Policy

Staff has proposed amendments to plan policy 71.01 under Issue #1 and Issue #10. While the intention of the two recommendations seems to be the same, the recommended language of the policy 71.01 under issue #10 differs from the language recommended under Issue #1. Staff should be clear about which version they are recommending and the City Council should be clear about which version they are adopting.

Issue #11: Amend Support Area of Illustrative Plans

Because the individual Activity Center Illustrative Plans do not conform with the plan and code text that describes the NAC's they should be amended or deleted.

Issue #12: Reduce Buildable Land Need for Parks

We do not support the staff recommendation.

A) Use of Unbuildable Land for Neighborhood and Community Parks

An exceptionally large portion of the City's UGB expansion is for parkland; almost 30% of all gross buildable land included in the UGB expansion is for parks. The City has included park land in the category of buildable residential acreage but has not adopted

any land use measures to protect this acreage for eventual park use, nor has the City proposed any funding mechanism to purchase this many buildable acres of parkland. We do not dispute the projected need for additional parkland. We *do* dispute the assumption that no portion of Neighborhood and Community Parkland needs can be met on unbuildable lands, including within the floodplain or other unbuildable land. The majority of McMinnville's current community parkland needs have been met in floodplain.

At the hearing before LCDC in April of 2004, the City asserted that including unbuildable land in neighborhood and community parks would be inconsistent with the city's adopted plans. This assertion appears to be inaccurate. In fact, the McMinnville Growth Management and Urbanization Plan explicitly calls for *inclusion* of unbuildable land in community and neighborhood parks in specific locations.⁴

At that hearing the City also claimed that it is city policy not to include wetlands or floodplain in neighborhood or community parks. In fact, the record shows otherwise. The City recently passed a bond measure to begin implementation of the adopted parks plan. The first major project funded under that bond measure was a large expansion of an existing park into floodplain. Also, as noted in the staff memorandum, "a fifth community park, in southwest McMinnville, is under construction and scheduled for completion in June of 2005." This park contains acres of wetlands. (see attached article).

The staff memorandum also states that the 1996 floods caused "thousands of dollars of damage," to Joe Dancer Park and Kiwanis Park. The memorandum does not state whether the damage totaled a few thousand dollars or tens of thousands of dollars. Even if damage was in the tens of thousands of dollars, with buildable land selling for \$50,000 to \$100,000 in McMinnville, it may well be prudent and more fiscally responsible to accept the risk of some damage in 100-year flood events than to locate all neighborhood and community parks on buildable land.

The staff memorandum (and MGMUP) also states that no additional land has been allocated for linear parks and trails. This is not entirely accurate. The City has included within its proposed UGB expansion 107 buildable acres and 55 unbuildable acres for Greenways/ Greenspaces/ Natural Areas in addition to the existing 102 acres of land in these park-types.⁵ It is not clear why the City considers trails and linear parks to be distinct from Greenways, Greenspaces, and Natural Areas.

These existing acres include extensive trails, including Airport Park, which is almost entirely devoted to trails. In materials posted on the web, the city states, "Five major

⁴ MGMUP: Page E-12, "A community park should... incorporate identified wetland corridors"
Page E-13, "A neighborhood park should be located adjacent to the South Yamhill River."
Page E-14, "... a neighborhood park should be located within the central portion of the [SW] sub-area... The wetland areas should be incorporated into the park, as practical."

⁵ MGMUP, p. B-26, Table 23

community parks and a linear greenway make up the bulk of the developed parkland.”⁶
The linear greenway referred to above is the Westvale Greenway.

During hearings on the Housing Needs Analysis in 2001, DLCD, 1000 Friends and others objected to the City’s insistence that all future neighborhood and community park needs could only be met unbuildable land. Subsequent to those hearings, the City expanded Joe Dancer Park into the floodplain, contradicting their previous insistence.

The assumption that neighborhood parks and community parks will use land less efficiently than they have in the past is inconsistent with Factor 4 of Goal 14, ORS 197.732(1)(c)(B) and Goal 2, Part II(c)(2).

B) Shared facilities

We concur with the comments of Mark Davis regarding the potential for school district and Linfield properties to meet some portion of park needs. We note that in a similar periodic review process in Woodburn, the City of Woodburn has assumed that 50% of all school land would also serve to meet the anticipated need for neighborhood and community parks. (see attachment).

Other Issues:

A) Goal 1 issues

Citizen participation is the first goal of Oregon’ statewide land-use planning program. McMinnville implements this directive in part through its Citizen’s Advisory Committee (CAC). Section 190.00 of McMinnville’s acknowledged Comprehensive Plan provides that the CAC shall hold public forums on major plan text and map amendments and changes in the urban growth boundary. Section 17.72.025 and 030 of the zoning ordinance require that the Planning Commission hold at least 1 public hearing on a proposed amendment to the zoning ordinance text or map.

Neither the CAC nor the Planning Commission has considered these proposed amendments to the plan and regulations. We believe the failure to bring the proposed amendments before these bodies may be inconsistent with Goal 1 directives, the acknowledged comprehensive plan, and its implementing regulations.

B) Issues not Addressed Herein:

The staff memorandum and recommendation principally address issues where DLCD has supported objections filed to the MGMUP. Our objections and exceptions included many issues that are not addressed by the staff memorandum and recommendation. Some of these other issues have been resolved during the previous hearing before LCDC, but many have not. We hereby renew all unresolved objections not addressed in this letter.

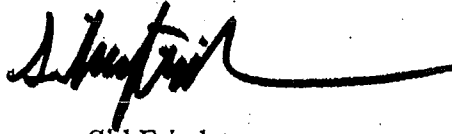
⁶ http://www.cprs.org/membersonly/MP&DG-McMinnville_RFP_Master_Plan.doc

We hope these comments are helpful. Please include them in the official record of this proceeding.

Sincerely,



Marilyn Reeves
Friends of Yamhill County



Sid Friedman
1000 Friends of Oregon

Larry Rucker

Attachments: Newspaper article
Excerpt from Woodburn Year 2020 UGB Justification Report

Cc: DLCD

Parks department wants ideas for new city park

Published: August 4, 2001

The News-Register The McMinnville Parks & Recreation Department has scheduled the second of three town hall meetings to hear ideas for a new community park adjacent to Columbus Elementary School.

City officials will present an overview of ideas discussed at the previous meeting and share design elements based on that testimony. In addition, new information will be presented on how wetlands assessments will affect the park's design and use.

The workshop will run from 6:30 to 9 p.m. Monday in Columbus Elementary School. For more information, call Parks & Recreation Director Jay Pearson at 503-434-7359.

Public and semi-public land needs are shown on Table 5 below. Park standards described in the 1999 Woodburn Parks and Recreation Comprehensive Plan Update were used to determine the need for buildable and unbuildable (natural area parks) land to accommodate parks and schools.

To create a land needs projection table for public and semi-public lands, we separated land types by categories of: schools, parks, institutional, religious, natural areas, and government. We approached each type slightly differently:

- **Schools** – We used the ratio of developed school land to population in the 1999 *Woodburn Parks and Recreation Comprehensive Plan Update*, about 5 acres per 1,000 residents, and extended that ratio to the Year 2020 Woodburn population to determine land needed for schools. Woodburn School District reviewed our projection and determined that Woodburn needed approximately 48 additional acres beyond our projection to meet school needs through 2020.⁹ Woodburn currently has about 115 acres of land for schools, and needs approximately 223 acres by 2023. This leaves an unmet need of 108 acres for schools to accommodate a new high school, a new middle school and two new elementary schools.
- **Parks** – Winterbrook used the 1999 *Woodburn Parks and Recreation Comprehensive Plan Update* to project park needs through 2020. The 1999 Update recommended a ratio of 7 acres per 1000 population to project need for neighborhood and community parks. We took a 2020 population of 34,919, applied the ratio, and then subtracted existing park lands to determine needed park acreage. The Parks Plan indicates that some of Woodburn's park needs will be met on school lands. We assumed 50% of all needed 2020 school lands would also serve to meet park needs, and added that to the parks supply. Woodburn currently has about 87 acres of parks and recreational land in use (plus about an additional 112 acres of 2020 school lands), and needs about 262 acres total to meet the recommended ratio. This leaves an unmet need for about 63 acres of park lands.
- **Institutional** – Woodburn currently has 500 residents who live in "institutions", according to the 2000 US Census, and has had no additional institutional development from 2000-2002. We applied the existing ratio to a projected 2020 population of 34,919, to determine an institutional population growth of approximately 337 through 2020. We applied a ratio of 30 residents per net acre (the maximum allowed under current zoning), which translated to an 11-acre need in this category.

1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC Goals;

2) Need for housing, employment opportunities, and livability.

⁹ August 30, 2004 letter from Woodburn School District. The District has a 20-year planning horizon. In order for the second new high school to be operational by 2023, the land will need to be purchased in or before 2020.